3-18-87
Vol. 52 No. 52

federal register

Wednesday
March 18, 1987

United States
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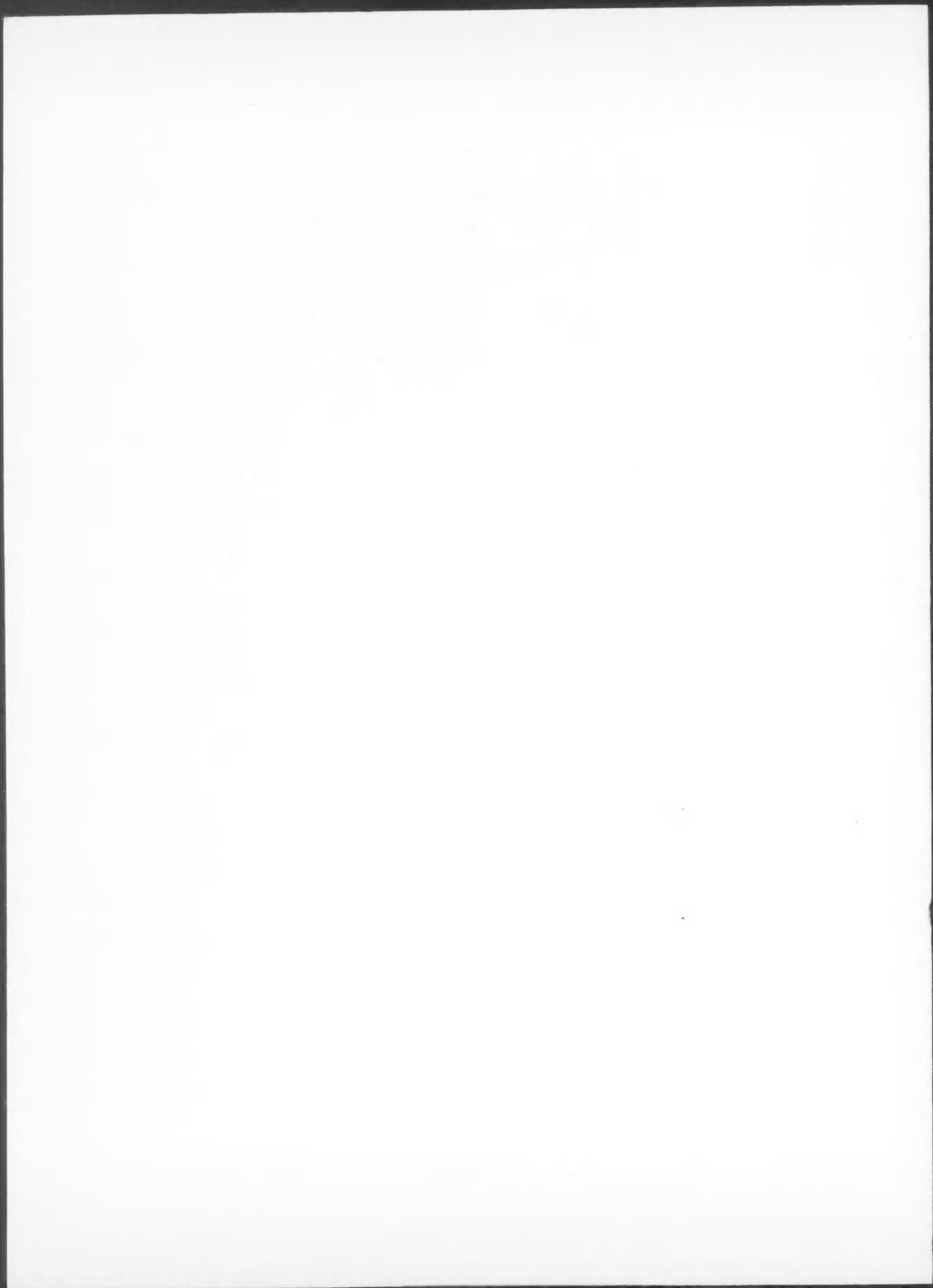
(ISSN 0097-6326)



3-18-87
Vol. 52 No. 52
Pages 8439-8580

federal register

Wednesday
March 18, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Atlanta, GA, and Washington, DC, see announcement on the inside cover of this issue.

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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.

ATLANTA, GA

WHEN: March 28; at 9 am.
WHERE: L.D. Strom Auditorium, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA.
RESERVATIONS: Call the Atlanta Federal Information Center, 404-331-2170.

WASHINGTON, DC

WHEN: March 31; at 9 am.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Beverly Fayson, 202-523-3517

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Presidential Documents

Title 3—

The President

Proclamation 5618 of March 16, 1987

To Amend the Quantitative Limitations on Imports of Certain Cheeses

By the President of the United States of America

A Proclamation

1. Quantitative limitations previously have been imposed on the importation of certain cheeses pursuant to the provisions of section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Section 701 of the Trade Agreements Act of 1979 (the "Act") provides that the President shall by proclamation limit the quantity of quota cheeses specified therein which may enter the United States in any calendar year after 1979 to not more than 111,000 metric tons.

2. By Proclamation No. 4708 of December 11, 1979, and Proclamation No. 4811 of December 30, 1980, quantitative limitations on imports of such cheeses were established as required by the Act. By Proclamation No. 5425 of January 6, 1986, the quantitative limitations were modified to permit imports of certain cheeses from Uruguay. Such quantitative limitations appear in part 3 of the Appendix of the Tariff Schedules of the United States (TSUS).

3. I have determined that it is appropriate to modify the quantitative limitations in the TSUS to reflect the Government of Portugal's accession to the European Economic Community. The quota allocations previously made to Portugal shall be transferred to the European Economic Community.

4. I have also determined that it is appropriate to modify the quantitative limitations in the TSUS in order to implement certain undertakings to the European Economic Community. The quantitative limitations set forth in the Appendix to the TSUS shall be modified also to add to the existing quota allocation for the European Economic Community an additional 1,572 metric tons. This modification does not reduce any existing quota allocations.

5. These actions do not increase the annual aggregate quantity of quota cheese to an amount in excess of 111,000 metric tons.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and the statutes of the United States of America, including section 701 of the Trade Agreements Act of 1979 and section 22 of the Agricultural Adjustment Act of 1933, as amended, do hereby proclaim that, effective January 1, 1987, part 3 of the Appendix to the Tariff Schedules of the United States is modified as follows:

1. TSUS Item 950.10 is modified by changing the line beginning with the "European Economic Community" to read as follows:

"European Economic Community	7,352,340	3,335,000"

2. TSUS Item 950.10C is modified by deleting the line beginning with "Portugal" and changing the line beginning with "European Economic Community" to read as follows:

"European Economic Community	7,991,675	3,625,000"

3. TSUS Item 950.10D is modified by changing the line beginning with "European Economic Community" to read as follows:

"European Economic Community	45,097,296 (of which 728,223 are reserved for Portugal)	20,456,000 (of which 353,000 are reserved for Portugal)"

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of March, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-5974
Filed 3-16-87; 4:22 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5619 of March 16, 1987

Women's History Month, 1987

By the President of the United States of America

A Proclamation

From earliest times, women have helped shape our Nation. Historians today stress all that women have meant to our national life, but the rest of us too should remember, with pride and gratitude, the achievements of women throughout American history.

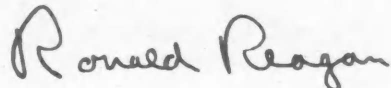
Those achievements span the wide range of human endeavor. They have not been attained without the quiet courage and sacrifice of millions of women, some famed, most not. Women have established themselves in business and the professions, and today women outnumber men as undergraduates at our colleges and universities. Women have fought for moral and social reform and have taken part in and led many great social and political movements of our land. Women have founded many of our philanthropic, cultural, educational, and charitable institutions. Women have served our Nation with valor and distinction during wartime, nursing the wounded, piloting airplanes, performing vital jobs in defense plants. Women have forged a place for themselves in public life, serving on the Supreme Court, in the Congress, and in Cabinet posts; becoming Ambassadors; and holding Federal Executive posts that affect the lives of every citizen.

Most importantly, as women take part in the world of work, they also continue to embrace and nurture the family as they have always done. All Americans can be truly grateful for the role of women as the heart of the family and for their every accomplishment today and throughout our history.

The Congress, by Senate Joint Resolution 20, has designated the month of March 1987 as "Women's History Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 1987 as Women's History Month. I call upon all Americans to mark this month with appropriate observances to honor the achievements of American women.

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



[FR Doc. 87-5975
Filed 3-16-87; 4:23 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5620 of March 16, 1987

Freedom of Information Day, 1987

By the President of the United States of America

A Proclamation

March 16 is the birthday of James Madison, our fourth President. We choose this day to celebrate our freedom of access to information about government because Madison, throughout his life, never ceased to mention the freedoms that help us learn everything we need to know about matters relating to our liberties and all public concerns.

Madison is often called the architect of the Constitution, whose Bicentennial we celebrate this year. He was a leading framer of that charter and was the chief recorder of the Constitutional Convention. He later helped frame the Bill of Rights, the first ten amendments to the Constitution, which spell out guarantees of our rights. He and other Founders knew that only a well-informed and educated citizenry could maintain liberty and that the freedoms of speech, religion, and the press protected by the First Amendment are central to that purpose.

Americans enjoy these freedoms and a free, responsive, and reasonable interaction between members of the public and those in government offices. We have always understood that our freedom of information is compatible with protection of national security and rights of privacy. As we celebrate free access to information as part of our heritage, let us honor the memory of President Madison for the wisdom and the devotion to the liberty of the American people that were his credo and his way of life.

The Congress, by Public Law 99-539, has designated March 16, 1987, as "Freedom of Information Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 16, 1987, as Freedom of Information Day, and I call upon the people of the United States to observe this day with appropriate programs and activities.

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

Ronald Reagan

[FR Doc. 87-5976
Filed 3-16-87; 4:24 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation of March 16, 1987

Freedom of Information Day, 1987

By the President of the United States of America

A Proclamation

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 70349-7049]

Automatic Sawing Equipment; Validated License Requirements

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls.

This rule amends the validated export license controls on certain automatic sawing equipment described in entry 1355A of the CCL in accordance with a finding of foreign availability under section 5(f) of the Export Administration Act of 1979, as amended. Automatic sawing equipment no longer requires a validated license for export except to destinations in Country Groups S and Z; such equipment is now controlled under entry 6399G of the CCL.

Notice of the foreign availability determination on this equipment has been published previously (51 FR 24736).

EFFECTIVE DATE: This rule is effective March 17, 1987.

FOR FURTHER INFORMATION CONTACT: John Pastore, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-3564.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule also is exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

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

4. This rule mentions a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0625-0001.

List of Subjects in 15 CFR Part 399

Exports, Reporting and recordkeeping requirements.

PART 399—[AMENDED]

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

1. The authority citation for Part 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 50 U.S.C. 1701 *et seq.;* E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 (October 2, 1986); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§ 399.1 [Amended]

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1355A is amended:

[a] By revising the *Validated License Required* paragraph [under the heading "Controls for ECCN 1355A"] to read "Country Groups QSTVWYZ.";

[b] By removing and reserving paragraph (b)(1)(xi) [which begins "automatic sawing equipment . . ."] under the "List of Equipment Controlled by ECCN 1355A"; and

[c] By removing and reserving paragraph (j) of the Advisory Note for the People's Republic of China.

§ 399.2 [Amended]

3. In Supplement No. 1 to § 399.2 (Commodity Interpretations), Interpretation 29 (General Industrial Equipment) is amended by adding the phrase "Automatic sawing equipment for semiconductor wafers" immediately before the phrase "Basket-making".

Dated: March 16, 1987.

Dan Hoydysh,

Acting Director, Office of Technology and Policy Analysis.

[FR Doc. 87-5957 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DT-M

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 61000-7029]

Direct Investment Surveys; Raising Exemption Levels for BE-605, 606B, 133B, and 133C Surveys

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These final rules amend 15 CFR Part 806 by raising the exemption levels for four mandatory direct investment surveys conducted by the Bureau of Economic Analysis (BEA).

The four surveys are quarterly survey BE-605, Transactions of U.S. Affiliate, Except an Unincorporated Bank, With Foreign Parent; quarterly survey BE-606B, Transactions of U.S. Banking Branch or Agency With Foreign Parent; annual survey BE-133C, Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad; and annual survey BE-133B, Follow-up Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad. The exemption levels for the BE-605 and 606B quarterly surveys are raised from $10,000,000 to $15,000,000 and the levels for the BE-133C and 133B annual surveys are raised from $8,000,000 to $10,000,000.

The purpose of these changes is to reduce the number of survey reports filed, thus significantly reducing the reporting and processing burden.

EFFECTIVE DATE: April 17, 1987.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, phone (202) 523-0657.

SUPPLEMENTARY INFORMATION: In the November 25, 1986 Federal Register, Volume 51, No. 227 (51 FR 42583), BEA published a notice of proposed rulemaking to raise the exemption levels for the BE-605, 606B, 133C, and 133B surveys. No comments on the proposed rulemaking were received. Thus, the final rule changes are the same as the proposed rule changes.

The four direct investment surveys for which exemption levels are raised under this final rule are part of BEA's regular direct investment data collection program. The surveys are mandatory and are conducted pursuant to the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108).

The exemption level for a given survey is the level of a U.S. or a foreign affiliate's assets, sales, or net income below which reporting is not required. Consequently, raising the exemption level will lower the number of reports to be filed, and will significantly reduce both the reporting burden on U.S. businesses and the processing burden on BEA. The total reduction in reporting burden will be approximately 2,650 hours.

The changes relating to Forms BE-605 and BE-606B will be effective with the reports covering the first calendar (or fiscal) quarter of 1987, which are due 30 days after the close of that quarter. The changes relating to Forms BE-133C and BE-133B will be effective with the reports due June 1 and December 1, 1987, respectively.

Executive Order 12291

BEA has determined that this final rulemaking is not "major"as defined in E.O. 12291 because it is not likely to result in:

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

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

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

Paperwork Reduction Act

The collection of information requirements in these final rules have been approved by OMB (OMB Nos. 0608-0009, 0608-0023, 0608-0024, and 0608-0020).

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities because it raises exemption levels, thereby reducing reporting requirements of smaller entities. Therefore, a regulatory flexibility analysis was not prepared.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting requirements, U.S. investment abroad.

For the reasons set forth in the preamble, 15 CFR Part 806 is amended as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101-3108, and E.O. 11961, as amended.

2. In §§ 806.14(f)(1) and 806.14(f)(2), the exemption levels are raised from $8,000,000 to $10,000,000 to read as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(f) *Annual report forms.* (1) BE-133B—Follow-up Schedule of Expenditures for property, Plant, and Equipment of U.S. Direct Investment Abroad: This is a schedule-type report form on which each majority-owned foreign affiliate exceeding an exemption level of $10,000,000 must be listed and the requested data given for each.

(2) BE-133C—Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investment Abroad: This is a schedule-type report form on which each majority-owned foreign affiliate exceeding an exemption level of $10,000,000 must be listed and the requested data given for each.

* * * * *

3. In §§ 806.15(h)(1) and 806.15(h)(2), the exemption levels are raised from $10,000,000 to $15,000,000 to read as follows:

§ 806.15 Foreign direct investment in the United States.

* * * * *

(h) *Quarterly report forms.* (1) BE-605—Transactions of U.S. Affiliate, Except on Unincorporated Bank, With Foreign Parent: One report is required for each U.S. affiliate exceeding an exemption level of $15,000,000.

(2) BE-606B—Transactions of U.S. Banking Branch or Agency with Foreign Parent: One report is required for each U.S. banking affiliate exceeding an exemption level of $15,000,000.

* * * * *

Allan H. Young,

Director, Bureau of Economic Analysis.

[FR Doc. 87-5762 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-06-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2511]

GC Services Corp.; Prohibited Debt Collection Practices

AGENCY: Federal Trade Commission.

ACTION: Notice of 30 day period for public comments on petition by GC Services Corp., to reopen and modify the order in Docket No. C-2511.

SUMMARY: GC Services Corp., respondent in the order in Docket No. C-2511 regarding prohibited debt collection practices, filed a petition on March 3, 1987, requesting that the Commission reopen and set aside the order.

DATE: The deadline for filing comments in this matter is April 11, 1987

ADDRESS: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. Requests for copies of the petition should be sent to Public Reference Branch, Room 130.

FOR FURTHER INFORMATION CONTACT: George T. O'Brien, Enforcement Division, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-2972.

SUPPLEMENTARY INFORMATION: The petitioner, GC Services Corp. is a major debt collection agency for businesses throughout the United States. The order modification requested by petitioner would set aside the order on the basis that the Fair Debt Collection Practices Act, enacted subsequent to the order, covers all the practices prohibited by the order and is directly enforceable by the Commission. The petition was placed on the public record on March 12, 1987.

List of Subjects in 16 CFR Part 13

Delinquent debt collection, Coercing and intimidation, Threatening suits, Not in good faith.

Emily H. Rock,
Secretary.

[FR Doc. 87-5747 Filed 3-17-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8130]

Income Tax; Taxable Years Beginning After December 31, 1953; Temporary Regulations—Alaska Native Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations

SUMMARY: This document contains temporary regulations relating to certain corporations included in a consolidated return with a Native Corporation established under the Alaska Native Claims Settlement Act. The applicable law was amended by the Tax Reform Act of 1984 and Tax Reform Act of 1986. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the Proposed Rules section of this issue of the Federal Register.

DATE: The regulations are effective March 13, 1987, and apply to taxable years beginning after December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Mark S. Jennings of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) or telephone 202-566-3458 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 60(b) of the Tax Reform Act of 1984 (the "1984 Act") (Pub. L. 98-369; 98 Stat. 948) amended section 1504 (a) of the Internal Revenue Code of 1986 ("the Code") to alter the general requirements for affiliation and add an 80 percent equity ownership test. In the case of the affiliation of a corporation with a Native Corporation ("ANC") established under the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 *et seq.*), paragraph (5) of section 60(b) delayed the effective date of the changes to the affiliation rules until taxable years beginning in 1992 or a subsequent year.

Section 1804(e)(4) of the Tax Reform Act of 1986 (the "1986 Act") (Pub. L. 99-514; 100 Stat. 2085) amended section 60(b)(5) of the 1984 Act to liberalize the requirements for affiliation with an ANC or with a wholly owned subsidiary of an ANC for any taxable year beginning after 1984 and before 1992. Under section 1804(e)(4), affiliation with an ANC or with a wholly owned subsidiary of an ANC is to be determined solely according to the provisions expressly contained in section 1504(a) of the Code as it existed before the amendments of the 1984 Act, without regard to escrow arrangements, redemption rights, or similar provisions. Section 1804(e)(4) additionally provides, in general, that no provision of the Code or principle of law shall deny the benefit or use of losses or credits of an ANC which is the common parent of an affiliated group of corporations (an "ANC group") filing a consolidated return, or of a wholly owned subsidiary of such an ANC, to the group.

The Alaska Native Claims Settlement Act of 1971 established 12 Native regional corporations and more than 150 Native village corporations to manage the land and cash granted to Alaska Natives in satisfaction of their aboriginal land claims. Many of the ANCs have incurred large net operating losses and have earned numerous business tax credits that they will not be able to utilize internally in the foreseeable future. Section 60(b)(5) of the 1984 Act and section 1804(e)(4) of the 1986 Act (the "ANC affiliation rules") were intended to provide special relief to ANCs by allowing the losses and credits of an ANC and its wholly owned subsidiaries to be used on a consolidated return against the income and tax liability of a profitable corporation, and to allow the ANC group to share in the resulting tax benefits. 132 Cong. Rec. S8175-76 (daily ed. June 23, 1986) (statement of Sen. Stevens).

In effect, the ANC affiliation rules generally were intended to allow an ANC to sell its tax losses and credits through the device of artificial affiliation with another corporation or group of corporations. The temporary regulations make clear that the ANC affiliation rules result in no tax saving, tax benefit, or tax loss to any person, other than the use of the losses and credits of an ANC and its wholly owned subsidiaries. In particular, except as approved by the Secretary, no positive adjustment under § 1.1502-32(b)(1) will be made with respect to the basis of stock of a corporation that is affiliated with a Native Corporation through application of the ANC affiliation rules. In general such approval by the Secretary shall take into account the economic effect of the investment by the Native Corporation in the corporation with which it is so affiliated.

Regulatory Flexibility Act; Executive Order 12291

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, these temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Drafting Information

The principal author of these temporary regulations is Mark S. Jennings of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, other personnel of the Internal Revenue Service and the Treasury Department participated in developing the regulations, or matters of both substance and style.

List of Subjects in 26 CFR 1.1502-1 through 1.1564-1

Income taxes, Controlled group of corporations, Consolidated returns.

Adoption of amendments to the regulations

PART 1—[AMENDED]

Accordingly, Part 1 of Title 26 of the Code of Federal Regulations is amended as follows:

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * § 1.1502-81T also is issued under 26 U.S.C. 1502.

Par. 2. New § 1.1502-81T is added as follows:

§ 1.1502-81T Alaska Native Corporations.

(a) *General Rule.* The application of section 60(b)(5) of the Tax Reform Act of 1984 and section 1804(e)(4) of the Tax Reform Act of 1986 (relating to Native Corporations established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)) is limited to the use on a consolidated return of losses and credits of a Native Corporation, and of a corporation all of whose stock is owned directly by a Native Corporation, during any taxable year (beginning after the effective date of such sections and before 1992), or any part thereof, against the income and tax liability of a corporation affiliated with the Native Corporation. Thus, no other tax saving, tax benefit, or tax loss is intended to result from the application of section 60(b)(5) of the Tax Reform Act of 1984 and section 1804(e)(4) of the Tax Reform Act of 1986 to any person (whether or not such person is a member of an affiliated group of which a Native Corporation is the common parent). In particular, except as approved by the Secretary, no positive adjustment under § 1.1502-32(b)(1) will be made with respect to the basis of stock of a corporation that is affiliated with a Native Corporation through application of section 60(b)(5) of the Tax Reform Act of 1984 and section 1804(e)(4) of the Tax Reform Act of 1986.

(b) *Effective Dates.* This section applies to taxable years beginning after December 31, 1984.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved: March 12, 1987.

J. Roger Mentz,
Assistance Secretary of the Treasury.

[FR Doc. 87-5789 Filed 3-13-87; 12:46 pm]

BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 860

Pension and Retirement Plans

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Final rule.

SUMMARY: This action rescinds the interpretations of the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. 621, *et seq.*, codified at 29 CFR 860.120(f)(1)(iv)(B), which hold that the ADEA permits employers to cease contributions and accruals to pension and retirement plans for employees who continue to work beyond normal retirement age.

Employers and others may no longer rely on the rules codified at 29 CFR 860.120(f)(1)(iv)(B) as a good-faith defense to liability for failure to contribute to a pension plan.

SUPPLEMENTARY INFORMATION: This rescission is done pursuant to an Order entered on February 26, 1987 by Judge Harold Greene in *American Association of Retired Persons, et al., v. Equal Employment Opportunity Commission,* Civil Action No. 86-1740, United States District Court for the District of Columbia.

EFFECTIVE DATE: March 18, 1987.

FOR FURTHER INFORMATION CONTACT: Paul E. Boymel or Joseph N. Cleary, Office of Legal Counsel, Room 214, EEOC, 2401 E Street, NW., Washington, DC 20507, (202) 634-6423.

This rescission action has been reviewed by the Office of Management and Budget in accordance with the provisions of Executive Order 12291.

The Chairman of the EEOC certifies that this rescission will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Act analysis is not required.

Authority: Section 9 of the ADEA authorizes the EEOC, as the agency responsible for the administration and enforcement of the statute, to issue rules and regulations that it considers necessary or appropriate to implement the statute.

Text: The Equal Employment Opportunity Commission, pursuant to court order, hereby rescinds the rules codified as 29 CFR 860.120(f)(1)(iv)(B) that allow employers to cease pension contributions and accruals at a plan's normal retirement age. Employers and others may no longer rely on the rules codified as 29 CFR 860.120(f)(1)(iv)(B) as a good-faith defense to liability for failure to accrue benefits or make contributions to a pension plan for persons who choose to continue working beyond normal retirement age. Therefore, 29 CFR 860.120(f)(1)(iv)(B) is removed.

Dated: March 13, 1987.

Clarence Thomas,
Chairman, Equal Employment Opportunity Commission.

[FR Doc. 87-5856 Filed 3-17-87; 8:45 am]

BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL-3158-2]

Designations of Areas for Air Quality Planning Process Attainment Status Designations; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: USEPA is revising the sulfur dioxide (SO_2) designation for Columbiana and portions of Summit County (Northwest corner) from nonattainment to attainment of the National Ambient Air Quality Standard (NAAQS). In addition, USEPA is denying the State of Ohio's request for the redesignation of Cuyahoga, Lorain, Morgan and Washington Counties. USEPA is taking no action at this time on Ohio's redesignation request for portions of Summit (center area), Coshocton, Lake, Gallia, Lucas and Jefferson Counties. USEPA is addressing the redesignation of Clermont County in a separate Federal Register notice.

USEPA's action is in response to Ohio Environmental Protection Agency's (OEPA) request to redesignate all areas currently classified as nonattainment for sulfur dioxide in Ohio to full attainment. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This final rulemaking becomes effective on April 17, 1987.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 S. Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Act, the Administrator of USEPA has promulgated the NAAQS attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

USEPA's criteria for data that warrant redesignating an area are set out in a April 21, 1983, memorandum, "Section 107 Designation Policy Summary" from Sheldon Meyers, Director, Office of Air Quality Planning and Standards. Accordingly, SO_2 redesignations must be supported by:

(a) Ambient monitoring data showing no violations over the most recent consecutive eight quarters (or four quarters if actual, commensurate, enforceable, concurrent emission reductions have also occurred).

(b) A USEPA reference modeled attainment demonstration at the SIP allowable emission limitations.

(c) Certification of compliance with the SIP limits based on the federally approved test methods.

On December 14, 1982, OEPA requested USEPA to designate all areas currently classified as nonattainment for SO_2 in Ohio to full attainment. This request was based on available ambient air quality data which have shown no violations since at least January 1980.

On July 17, 1984 (49 FR 28888), USEPA proposed the following action on the State's request. (1) USEPA proposed to approve the redesignation for Columbiana and portions of Summit County (northwest corner [1]; (2) USEPA proposed to deny the redesignation of Clermont, Coshocton, Cuyahoga, Lake, Lorain, Morgan, Washington, and portions of Summit County (central area); and (3) USEPA proposed to take no action on the redesignation for Gallia, Lucas, and Jefferson Counties for the reasons that the U.S. Court of Appeals of the District of Columbia, on October 11, 1983, ordered USEPA to reconsider portions of its "stack height" regulations for stationary sources and these counties include sources which could be affected by this remand. In today's notice, USEPA is taking final action as discussed above with the exception of the following: (1) USEPA is addressing Clermont County in a separate Federal Register notice and (2) USEPA is taking no action at this time on the redesignation of portions of Summit County (center area) [2], Coshocton and Lake Counties.

Public Comments

During the public comment period, comments were submitted by OEPA, the City of Cleveland, Division of Air Pollution Control, and several Ohio utilities. These comments and USEPA's response are summarized below.

I. Stack Heights

1. *Comments:* Revisions to USEPA's Stack Height Rules are irrelevant to attainment status designations. Section 107 of the Clean Air Act deals only with actual air quality, while section 123 of the Clean Air Act, dealing with stack heights of stationary sources, does not.

Response: Section 123 of the Clean Air Act indicates that the degree of emission limitation required for control of any air pollutant under a SIP shall not be affected by so much of the stack height of any source that exceeds good engineering practice (GEP) as determined in accordance with regulations promulgated by USEPA. USEPA's policy on section 107 designations of attainment has always required compliance with section 123 of the Clean Air Act. Specifically, areas (which are attaining the SO_2 NAAQS) cannot be designated as attainment if the NAAQS are being met solely or partially through the use of unauthorized dispersion techniques, such as a stack of greater than GEP height (see "Attainment/Nonattainment Status Designations", January 3, 1978, memorandum; 43 FR 8962, March 3, 1978; 43 FR 45993, October 5, 1978; and "Section 107 Designation Policy Summary", April 21, 1983, memorandum). This view is based on section 171(2) of the Act, 42 U.S.C. section 7501(2), which provides that a "nonattainment area" is any area "which is shown by monitored data or *which is calculated by air quality modeling* . . . to exceed any National Ambient Air Quality Standard. . . ." (Emphasis added.)

On July 8, 1985 (50 FR 27892), USEPA promulgated revised stack height regulations in response to the recent Court decision (*Sierra Club vs. USEPA*, 719 F.2d 436 (D.C. Cir. 1983), *cert. den*, 52 U.S.L.W. 3929 (U.S., July 2, 1984). Pursuant to these regulations, Ohio is required to review the SIP and submit SIP revisions made necessary by the stack height rules. Since Ohio is still in the process of performing this review, USEPA believes it is reasonable to temporarily postpone action on Ohio's request for all areas potentially affected by the stack height regulations. During the public comment period, OEPA agreed with USEPA's action to postpone rulemaking for the affected counties. Consequently, we will continue to take no action on the redesignation request for Gallia, Lucas, and Jefferson Counties.

The notice of proposed rulemaking also mentioned that some other counties (i.e., Lake and Coshocton) were also affected by the Court decision but could not be approved for other reasons (i.e., lack of compliance certification). For Lake County, no compliance data were provided for CEI Eastlake, the major source in the nonattainment area. For Coshocton County, acceptable compliance data were provided for Units 1-4 at C&SOE Conesville, but no such data were provided for Units 5-6. Consequently, the redesignation requests for these counties are still not approvable. Nevertheless, USEPA is not taking action on the designation of these areas until the stack height issues at Eastlake and Conesville, are resolved.

2. *Comment:* USEPA's decision to delay action on the Gallia and Jefferson Counties' designations ignores specific findings on stack height credit for the Kyger Creek and Cardinal Plants in connection with promulgation of SO_2 emission limitations for the two plants.

Response: The previous GEP stack height determinations for these two plants were based on the February 8, 1982, Stack Height Regulations. The District of Columbia Circuit Court decision discussed above affected not only the February 8, 1982, Regulations themselves, but also related stack height determinations. Furthermore, under the final stack height regulations, the GEP stack height determination would differ from the determinations made using the methods in the 1982 regulations. As

[1] Entire area northwest of the following lines—Route 80 east to Route 91. Route 91 north to the county line.

[2] Area bounded by the following lines: North—Bath Road (48) east to Route 8, Route 8 north to Barlow Road, Barlow Road east to the county line. East Summit/Portage County line. South—Interstate 76 to Route 93. Route 93 south to Route 619. Route 619 east to the county line. West—Summit/Medina county line.

noted previously, USEPA will defer action on Ohio's redesignation request for all affected counties (including these two counties) until Ohio has completed its SIP review pursuant to the stack height regulations.

II. Compliance Certifications

1. *Comment:* Compliance with emission limits should not be a necessary condition for redesignation, since these limits are developed using worst-case assumptions (e.g., maximum allowable emissions and worst-case meteorology), not actual conditions.

Response: According to "Section 107 Designation Policy Summary" (April 21, 1983), the support for an attainment designation must include ". . . evidence of an implemented control strategy that USEPA had fully approved." This is necessary since, in most cases in Ohio, the SO_2 limits provide only for enough control to just meet the NAAQS. Thus, in order to ensure continued attainment, compliance with the emission limit is required. (Note, the use of modeling for designation purposes is an established part of USEPA's designation policy (see the April 21, 1983, memorandum) and has been upheld by the courts (for example, in the Summit County remand case, in *PPG Industries, Inc., v. Costle,* 630 F.2d 462, 464 (6th Cir. 1980), and more recently in *Wisconsin Electric Power Company vs. Costle,* 715 F.2d 323, 329-331 (7th Cir. 1983)).

2. *Comment:* USEPA must honor its commitment to the Sixth Circuit Court in *Columbus and Southern Ohio Electric Company vs. Costle,* 638 F.2d 910 (6th Cir. 1980) that, once compliance is achieved, the nonattainment areas will be redesignated attainment, on the basis that compliance with limits shown to ensure attainment and maintenance is sufficient to redesignate.

Response: USEPA will redesignate the area to attainment provided that there is both an existing valid attainment demonstration and a certification of source compliance with the modeled SIP emission limits. As indicated above, for certain counties, USEPA is not sure that the current attainment demonstration will continue to be valid, because of uncertainty about how the stack height requirements will affect the demonstration.

3. *Comment:* All sources in Cuyahoga County are either in compliance with the SIP or have closed. Since the SIP limits have been demonstrated to ensure attainment of the NAAQS, compliance with these limits is a sufficient basis for redesignating the county to attainment.

Response: The SIP regulations for some sources cited by the commentor are, in fact, the State rules which have not been approved as part of the Ohio SIP and, thus, are not enforceable by USEPA. As noted previously, USEPA's enforceability of the emission limits in the approved SIP is a necessary condition. Thus, the Commentor's claim does not support redesignating the county to full attainment.

4. *Comment:* The July 17, 1984, **Federal Register** and Technical Support Document (TSD) do not clearly state what data is missing for what sources and in which counties the sources are located.

Response: The sources for which USEPA has no data indicating compliance were identified in Attachment 1 of the TSD. Note, in Ohio's August 15, 1984, letter, Ohio recognized the need for stack test data from major sources.

5. *Comment:* CG&E submitted results of a recent stack test for its Beckjord Plant and requested Clermont County be designated attainment.

Response: USEPA has reviewed these data and believes that: (a) The stack tests demonstrate compliance with the SIP emission limits for Units 1-4 (1.84 lbs/MMBTU) and Units 5-6 (7.18 lbs/MMBTU), and (b) the coal burned during the tests is representative of the current coal supply. Consequently, these compliance data, together with the modeled attainment demonstration for the SIP limits, and the available monitored data showing no violations support redesignation to full attainment. USEPA is addressing the redesignation of Clermont County in a separate **Federal Register.**

6. *Comment:* In Lake County, a utility claimed that there are currently 10 monitors which show attainment of the NAAQS. Therefore, they felt it is inappropriate to require additional proof by way of emission stack tests. A policy memorandum ("Section 107 Designation Policy") does not support USEPA's action.

Response: No monitored data were provided by the commentor to support their claim of monitored attainment. Even if these data were available, however, the absence of compliance certification data is a sufficient basis for not approving a designation of attainment.

With respect to the use of policy memorandum, USEPA maintain that modeling data for designation purposes is supported by both the Clean Air Act and various court decisions. (See *PPG Industries, Inc. v. Costel,* 630 F.2d 462, 464 (6th Cir., 1980), and *Wisconsin Electric Power Company v. Costle,* 715 F.2d 323, 329-331 (7th Cir. 1983).

7. *Comment:* On October 31, 1984, OEPA submitted some data for U.S. Steel's Lorain Plant which they claimed certified compliance and requested that Lorain County be redesignated to full attainment.

Response: USEPA has reviewed the submitted data and disagrees that it supports redesignation of Lorain County to attainment. First, it is not clear whether the data represent actual operating emissions data or just a restatement of allowable emissions.

Second, the allowable emissions cited in the submittal represent the State's rules, not the current Federal SIP which is different, in some cases, than the State's rules for this plant.

III. Court Remands

1. *Comment:* USEPA's characterization of Summit County as currently carrying a nonattainment designation is erroneous, due to the invalidity of USEPA's original designation as determined by the Sixth Circuit.

USEPA's initial nonattainment designation of Coshocton County (Franklin Township) was set aside by the Sixth Circuit in *Columbus and Southern Ohio Electric Company v. Costle,* 638 F.2d 910 (6th Cir. 1980). Therefore, USEPA, characterization of Franklin Township is carrying a nonattainment designation is erroneous.

If OEPA's requested redesignations to attainment for both Coshocton and Summit are denied, then USEPA should clarify that the current underlying unclassifiable designations will remain in effect.

Response: USEPA acknowledges the remand of the nonattainment designations for central Summit County and Franklin Township, Coshocton County. Contrary to the commentor's claim, however, USEPA believes that these areas currently have no designation for two reasons. First, the court's decision simply remanded the nonattainment designation and did not impose an unclassifiable designation on all SO_2 and TSP areas not designated within 180 days after August 7, 1977. That decision is not applicable here since these two areas were designated (as nonattainment, under section 107(d)(1)(B)) within the necessary timeframe, and the court remand did not purport to convert these counties into 107(d)(4) unclassifiable areas. Thus, USEPA believes the remand both removed any designations from these areas, and directed USEPA to establish supportable designations.

In order to more fully respond to the comments concerning the Court remands, a discussion of USEPA's

actions since the remands and USEPA's intended future actions is necessary.

Summit—On September 30, 1980, PPG Industries, Inc., v. Costle, 630 F.2a the U.S. Court of Appeals, Sixth Circuit 462, 464 (6th Cir-1980), remanded USEPA's designation of nonattainment for central Summit County because USEPA's action was not supported by the administrative record. The Court acknowledges that the designation might remain unchanged (i.e., nonattainment) in light of the Agency's remodeling data, which were available but were not included in the record.

Before USEPA responded to the remand, PPG requested USEPA to designate the Barberton area to full attainment on December 30, 1981. The State formally requested a designation of attainment for the Barberton area on May 17, 1982. On November 23, 1982, in response to both the Court remand and the requests from PPG and Ohio, USEPA proposed the SO_2 nonattainment designation for Summit County. During the public comment period, six commentors requested that the entire county be designated attainment. These comments, however, raised questions about the compliance status of sources in the Akron area. For this reason, USEPA proceeded with action on the Barberton area (Notice of Final Rulemaking was published on September 26, 1984) and deferred action on the remainder of central Summit County. Furthermore, the attainment demonstration for General Tire and Goodyear are affected by the Stack Height Regulations.

On July 17, 1984, USEPA proposed to designate this central Summit County area as primary nonattainment based on the remodeling analysis noted above and the lack of source compliance data. On October 18, 1984, OEPA notified USEPA that it would obtain the necessary compliance data for the major SO_2 sources in the county.

Even if the State provides this information, however, USEPA could still not approve a designation of attainment, at this time, because of the stack height issues. Consequently, USEPA is taking no action on the designation of central Summit County until the stack height issues are resolved.

Coshoton—On September 30, 1980, the U.S. Court of Appeals, Sixth Circuit remanded USEPA's designation of nonattainment for Franklin Township for additional development of the record, especially as it deals with USEPA's use of the "Class A assumption" in its computer modeling of air quality.

On June 29, 1978, the Sixth Circuit remanded to USEPA the use of certain technical assumptions underlying the Agency's modeling for isolated rural power plants, the Pasquill-Gifford (PG) dispersion coefficients for stability Class A. In question were the emission limitations for four Ohio power plants. On June 19, 1980, USEPA published its reconsideration of the Class A issue and responded to numerous public comments. On March 22, 1984, the Sixth Circuit upheld USEPA's decision to employ the PG Class A coefficients, *Ohio Power Company vs. USEPA*, 729 F.2d 1096. Since the Franklin Township remand was tied to USEPA's reconsideration of the Class A issue, the Agency did not proceed with designating the Township while the Class A litigation was still in progress. Even though the Court recently settled the Class A issue, USEPA intends to take no further action on the designation of this area until the stack height issue is resolved.

IV. Regulatory Requirements

1. *Comment:* Inaction on the Gallia and Jefferson Counties designations is inconsistent with USEPA's mandatory duty to promulgate designations within 60 days of submittal.

Response: USEPA disagrees with the commentor's claim that it is required to act on redesignation requests within 60 days. The 60-day deadline in section 107(d)(2) applied to USEPA's action on the State's original list of attainment/ nonattainment areas. Section 107(d)(5), which applies to redesignations, specifies no schedule for USEPA action. Furthermore, under the circumstances, USEPA would be forced to disapprove these redesignation requests before final regulations on stack heights were promulgated.

Final Action

Based on available ambient air quality data which have shown no violations in Columbiana and portions of Summit County (northwest corner) in the last several years, and based on modeling data for these areas as well as compliance data, USEPA is designating these areas to attainment for sulfur dioxide. In addition, USEPA is denying the State of Ohio's request for the redesignation of Cuyahoga, Lorain, Morgan and Washington Counties. USEPA is taking no action, at this time, on Ohio's redesignation request for portions of Summit (center area), Coshocton, Lake, Gallia, Lucas, and Jefferson Counties. USEPA is addressing the redesignation of Clerment County in a separate Federal Register notice.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 1987. (See 307 (b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks.

Dated: February 12, 1987.

Lee M. Thomas,
Administrator.

PART 81—DESCRIPTION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. In § 81.336 the Table for Ohio Sulfur Dioxide is amended by revising Columbiana and Summit Counties as follows, and by revising footnote 2 and 3, and by adding footnote 4 to read as follows:

OHIO—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * * * *				
Columbiana County				X
Summit County:				
Area bounded by the following lines—North—Interstate 76, East—Route 93, South—Vanderhoof Road, West—Summit County Line.				X

OHIO—SO_2—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Area bounded by the following lines—North—Bath Road (48 east to Route 8, Route 8 north to Barlow Road, Barlow Road east to county line, East—Summit/Portage County line, South Interstate 76 to Route 93, Route 93 south to Route 619, Route 619 east to County line, West—Summit/Medina County line.	(2)	(2)	(2)	(2)
Entire area northwest of the following line Route 80 east to Route 91, Route 91 north the County line.				X[3]
The remainder of Summit County				X[4]
* * * * * * *				

* * * * *

[2] This area remains undesignated at this time as a result of a court remand in *PPG Industries, Inc. vs. Costle*, 630 F.2d 462 (6th Cir. 1980).

[3] This area was affected by the Sixth Circuit Court remand but has since been designated.

[4] The area was not affected by the court remand in *PPG Industries, Inc. vs. Costle*, 630 F.2d 462 (6th Cir. 1980).

[FR Doc. 87-5804 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[FRL-3168-9]

Tolerance Exemption for N,N-Bis(2-(Omega-Hydroxypolyoxyethylene)Ethyl) Alkylamine; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects a chemical reaction for a listing in 40 CFR 180.1001(d), which was inadvertently introduced in an amendment published in the **Federal Register** of September 18, 1978 (43 FR 41391).

DATE: Effective March 18, 1987.

FOR FURTHER INFORMATION CONTACT: Rosalind Gross, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Registration Support and Emergency Response Branch, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-7700.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 18, 1978 (43 FR 41391), EPA added to 40 CFR 180.1001(d) the entry "*N, N*-Bis 2-(*omega*-hydroxypolyoxyethylene) ethyl alkylamine; the reaction product of 1 mole *N,N*-Bis(2-hydroxyethyl) alkylamine and 3-60 moles of poly(oxyethylene) alkylamine, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids." The reaction "1 mole *N,N*-Bis(2-hydroxyethyl) alkylamine and 3-60 moles of poly(oxyethylene) alkylamine" should have read the reaction product of "1 mole *N,N*-Bis(2-hydroxyethyl) alkylamine and 3-60 moles of ethylamine oxide." The reaction as currently stated in § 180.1001(d) is not chemically possible, as both reactants are ethylated amines. Therefore, the entry is corrected to read as follows:

N,N-Bis(2-(omega-hydroxypolyoxyethylene)ethyl) alkylamine; the reaction product of 1 mole *N,N*-Bis(2-hydroxyethyl) alkylamine and 3-60 moles of ethylene oxide, where the alkyl group (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.

This change is nonsubstantive; it merely corrects an inaccurate chemical expression.

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

Dated: March 4, 1987.

Edwin F. Tinsworth,

Director, Registration Division.

[FR Doc. 87-5574 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[FRL-3169-1]

Tolerance Exemption for Octyl and Decyl Glucosides Mixture; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule correction.

SUMMARY: This document corrects a typographical error in 40 CFR 180.1001(e), which was inadvertently introduced when an amendment published in the Federal Register of September 2, 1975 (40 FR 40161) was incorporated in the 1976 version of the Code of Federal Regulations.

DATE: Effective March 18, 1987.

FOR FURTHER INFORMATION CONTACT:

Rosalind Gross, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-7700.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 2, 1975 (40 FR 40161), EPA added to 40 CFR 180.1001(e) the entry "Octyl and decyl glucosides mixture with a mixture of octyl and decyl oligosaccharides and related reaction products (primarily *n*-decanol) produced as an aqueous-based liquid (68-72 percent solids) from the reaction of straight chain alcohols (C_8 (45 percent), C_{10} (55 percent)) with anhydrous glucose." In 40 CFR 180.1001(e), revised as of July 1, 1976, the expression "the reaction of straight chain alcohols (C_8 (45 percent), C_{10} (55 percent))" was incorrectly transcribed as "the reaction of straight chain alcohols (C_8 (45 percent), C_{15} (55 percent))", and the incorrect expression has been carried in subsequent editions of the CFR. Therefore, this document corrects "C_{15} (55 percent))", in the expression to read "C_{10}".

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

Dated: March 4, 1987.

Edwin F. Tinsworth,

Director, Registration Division.

[FR Doc. 87-5573 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[CC Docket No. 85-204; FCC 87-61]

International Settlements Policy for Parallel Routes in International Telecommunication

AGENCY: Federal Communications Commission.

ACTION: Final rule; order on reconsideration.

SUMMARY: The Commission has issued an order on reconsideration reviewing and modifying its international settlements policy. The action is taken in response to several petitions for reconsideration.

EFFECTIVE DATE: March 23, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jacqueline Spindler, Federal Communications Commission, Room 544, Washington, DC 20554. Tel. 202 632-4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, CC Docket 85-204, adopted February 10, 1987 and released February 19, 1987. The full text of this Commission order is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554, telephone 202 857-3800.

Summary of Order on Reconsideration

The Commission's international settlements policy requires that two or more U.S. carriers providing similar service to the same point do so under operating agreements with identical accounting rates, settlements rates and divisions of tolls. Any departure from uniform terms must be accompanied by the Commission's waiver of the policy. The just-completed rulemaking procedure in CC Docket No. 85-204 concerns the implementation and scope of this policy. In the current Order or Reconsideration, the Commission considers petitions for reconsideration that raise the following questions: (1) Should the settlements policy's application to transit traffic have the same procedural and filing requirements as are in force for direct traffic? (2) Should the settlements policy's application to voice traffic have the same procedural and filing requirements as are in force for record traffic? (3) Should the policy apply to enhanced services?

On February 10, 1987 the Commission adopted a Reconsideration Order that modifies the policy to emphasize its anti-whipsawing purposes rather than its requirement of uniformity. This Reconsideration also moves the Report and Order's strict adherence to uniformity and equal division of tolls for indirect traffic, and rescinds the filing requirements that accompanied that adherence. The Reconsideration Order also clarifies the distinction between indirect and true transit traffic, and restores to rules § 43.53(a) the exemption from filing requirements of true transit traffic (traffic in which a U.S. carrier serves as the intermediate, switching entity). The Reconsideration Order also further streamlines the policy's waiver procedures with regard to international voice services. Finally, the Reconsideration Order affirms the Order's application of the policy, without procedural or filing requirements, to enhanced services.

List of Subjects in 47 CFR Part 43

Communications common carriers.

William Tricarico,
Secretary, Federal Communications Commission.

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

PART 43—REPORTS OF COMMUNICATIONS COMMON CARRIERS AND CERTAIN AFFILIATES

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

Authority: Sec. 4, 48 Stat. 1066, as amended, 47 U.S.C. 154, unless otherwise noted. Interprets or applies secs. 211, 219, 48 Stat. 1073, 1077, as amended, 47 U.S.C. 211, 219, 220.

2. Section 43.53 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 43.53 Reports regarding division of international telegraph communication charges.

(a) Each communication common carrier engaged directly in the transmission or reception of telegraph communications between the continental United States and any foreign country (other than one to which the domestic word-count applies) shall file a report with the Commission within thirty (30) days of the date of any arrangement concerning the division of the total telegraph charges on such communications other than transiting. * * *

* * * * *

[FR Doc. 87-5691 Filed 3-17-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-257; RM-5260]

Radio Broadcasting Services; Kalispell, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 280A to Kalispell, Montana, in response to a petition filed by William H. Patterson, as a third FM broadcast service to the community. Canadian concurrence has been obtained for the allocation of Channel 280A at Kalispell. Supporting comments were filed by William H. Patterson. With this action this proceeding is terminated.

EFFECTIVE DATES: April 27, 1987; the window period for filing applications will open on April 28, 1987, and close on May 27, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-257, adopted February 10, 1987, and released March 12, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Montana, by adding Channel 280A to Kalispell.

Federal Communications Commission.

Mark N. Lipp,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-5794 Filed 3-17-87; 8:45 am]

BILLING CODE 6712-01-M

BEST COPY AVAILABLE

47 CFR Part 43

[MM Docket No. 86-232; RM-5231]

Radio Broadcasting Services; Omak, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 226C2 for Channel 224A at Omak, Washington, and modifies the license of Station KOMW-FM to specify operation on the new frequency, at the request of Okanogan Valley Broadcasting. A site restriction of 10 kilometers (6.3 miles) southwest of Omak is required. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 27, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-232, adopted February 10, 1987, and released March 12, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. § 73.202, paragraph (b), the FM Table of Allotments is amended, under Washington, by revising Channel 224A to read 226C2 for Omak.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-5795 Filed 3-17-87; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 52, No. 52
Wednesday, March 18, 1987

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

Federal Grain Inspection Service

7 CFR Part 810

Insect Infestation in Grain

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: According to the provisions of section 304 of the Grain Quality Improvement Act of 1986, the Federal Grain Inspection Service (FGIS or Service) is proposing to revise the Official U.S. Standards for Grain with regard to insect infestation in grain, as follows: (1) The Special grade "infested" would be removed from the individual grain standards and incorporated into the General Provisions subpart. Included are definitions of the term infested that apply to the representative sample, lot as a whole (stationary), and sample as a whole (continuous loading/unloading of shiplots and barge-lots) sampling designations; (2) The "infested" definition would be revised to include a live insect tolerance that would give equal value to all insects injurious to stored grain and would make the infested definition of "one or more live insects" per representative sample (zero tolerance) the same for all grains. This tolerance would be phased-in over 4 years, first with a definition of "three or more live insects" beginning in 1988, second, a definition of "two or more live insects" beginning in 1990, and finally beginning in 1992, a definition of "one or more live insects"; (3) The Sample grade definition in the individual grain standards would be revised to include a limit of 10 live or dead insects per 1,000 grams (600 grams for sunflower seed) of the representative sample; and (4) The Sample grade definition in the wheat standards would be revised to include a limit of 32 insect-damaged kernels per 100 grams of wheat.

DATE: Comments must be received on or before April 17, 1987.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, RM, USDA, FGIS, Room 1661, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1738.

Telemail users may respond to [IRSTAFF/FGIS/USDA] telemail.

Telex users may respond as follows:
TO: Lewis Lebakken
TLX: 7607351,ANS:FGIS UC.

All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

W. Kirk Miller, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees and licensed persons.

Background

Section 304 of the Grain Quality Improvement Act of 1986 (Pub. L. 99–641; GQIA) provided that within six months of the enactment, the Service would issue a final rule that would revise grain inspection procedures and standards established under the United States Grain Standards Act (7 U.S.C. 71 *et seq.*) to more accurately reflect levels of insect infestation. This action proposed changes to the Official U.S. Grain Standards in accordance with section 304 of the GQIA.

Prior to enactment of the GQIA, the Service began evaluating the current grain standards and inspection procedures with regard to insect infestation of grain. An FGIS task force was appointed by the Administrator in September 1984 to review the issue of insect infestation in grain. In a February 1985 report, the task force made its recommendations. In addition, the FGIS Advisory Committee designated a subcommittee to review the task force report. A public meeting was held by the subcommittee on September 4, 1985. The FGIS Advisory Committee recommended that the Service invite public comment on insect tolerances and that any changes should be phased in over time.

In response to recommendations from the FGIS Advisory Committee, on July 7, 1986, the Service invited public comment on suggested changes to tolerances and grading factors relating to insect infestation in grain (51 FR 24532). The proposed changes were to:

(1) Set the same tolerances for insects for all of the U.S. grain standards;

(2) Treat all types of insects injurious to stored grain with equal weight in the established insect tolerances; and

(3) Create a separate grade factor in the wheat standards to limit insect damaged kernels. Subsequent to publication of the request for public comment on these issues, 54 comments were received from nearly all segments of the industry.

When the established tolerances for insects are exceeded under the current grain standards, the majority of official grain standards require a special grade, either the special grade "weevily" or the special grade "infested." The Service proposed revisions to the Official U.S. Standards for Grain in a proposed rule published on October 2, 1986 at 51 FR 35224, and supplemented at 51 FR 41971, November 20, 1986. In addition, a proposed rule to implement section 303 of the GQIA regarding grain handling practices was published in March 1987, and provided for an additional comment period of 30 days on the October 2, 1986 proposal. The October 2, 1986 proposal would provide for uniform procedures for grain standards where appropriate. One proposed change would provide for the special grade "infested" for each of the individual grain standards with the special grade "weevily" deleted. "Infested" grain would be defined as grain infested with live weevils or other live insects injurious to stored grain according to procedures prescribed in

FGIS Instructions. This change was proposed because it more appropriately describes grain containing live insects injurious to stored grain. The term "weevily" connotes a specific insect, i.e., *Sitophilus* spp. Other insects, in addition to all types of weevils, would be included within the scope of the proposed term "infested" grain.

(a) Live Insect Tolerances

Currently the live insect tolerances for food grains are less than those for feed grains or seeds processed for their oil content. Wheat, rye, and triticale currently have an infestation tolerance considerably lower than the other grains. This difference in tolerances reflects the fact that wheat, rye, and triticale have been generally viewed as food grains, while barley, corn, flaxseed, oats, sorghum, soybeans, sunflower seed, and mixed grain have been generally viewed as feed grains or are processed for their oil content. In February, 1985, an FGIS Insect Infestation Task Force report noted that classifying grains as "food" and "feed" is not applied equally between grains or for factors within a standard. The Task Force concluded that insect tolerances should be uniform for all grains and that the "feed grain" tolerances for insects should be lowered. There was a general consensus from the FGIS Advisory Committee and a subcommittee designated to review the Task Force report that insect tolerances for all grains should be the same.

A minority of commenters responding to the July 7, 1986, notice opposed a change to establish uniform insect tolerances for all grains in the U.S. Standards for Grain (7 CFR Part 810). Those commenters who opposed the change stated that: (1) The Service could not demonstrate that the concern for infestation is the same for all grains, particularly when the specific end-use is considered; (2) producers and grain handlers may have difficulty making grade should such a change be made, thereby suffering unnecessary discounts on non-food use grain; (3) to promulgate rules for the entire trade which are primarily aimed toward the problems of domestic millers is to encumber the exporters with serious constraints that can only add to the complexity of overseas marketing; (4) insect damage is less of a problem in the feed grains; (5) if equal insect tolerances were established for all grains, then the feed grain tolerances would have to be tightened to match those set for food grains, not vice versa; and (6) the Service should continue to set insect tolerances for each grain based on the needs of the traders and users of the commodities.

A majority of commenters stated that uniform insect tolerances should be established for all grains. Other commenters noted that: (1) By tightening insect tolerances, the responsibility for less infestation will start at the first receiver of grain, and grain quality should then improve through the entire marketing chain; and (2) no distinction should be made between food and feed grains, since feed grains, such as corn and oats can be used in the production of food grade products.

The Service believes that the disparity in tolerances is difficult to support since those grains frequently referred to as feed grains are commonly used for human consumption both in the domestic and export markets. The proposed change to the Official U.S. Standards for Grain would benefit not only domestic millers but also the entire grain industry because the proposed tolerances, while more restrictive, would enhance the overall quality of both domestic and export grains.

Currently, the Service differentiates between insect tolerances with a classification for weevils and a classification for other live insects injurious to stored grain (OLI). The category of weevils includes the rice, granary, maize, cowpea weevil, and the lesser grain borer. The OLI category includes grain and flour beetles, grain moths, vetch bruchids, and other insects injurious in stored grain. The tolerances for these two categories of insects were based upon the varying damage levels caused by the insects in grain.

Weevils consume the majority of the endosperm while developing inside the kernel. The insects in the OLI category primarily confine their feeding to floury material, broken kernels, or the germ area. On a strict weight loss basis, weevils generally consume more of the grain than other insects in the OLI category. However, both categories of insects affect nutritional value, accelerate spoilage, and leave frass, wastes, and body parts in grain. The FGIS Task Force recommended that all insects injurious to grain be given equal weight in determining an overall tolerance for infestation.

Some commenters responding to the July 7, 1986, notice opposed giving all types of insects injurious to stored grain equal weight in the established insect tolerances. Among the statements in opposition were: (1) If one OLI is equivalent to a weevil, the current tolerance would be so constraining as to increase the possible designation of "infested" by a factor of up to three times in wheat and up to eight times in corn; (2) changing the current classification, which is based on the degree of damage caused by each group of insects, would have a significant negative impact on the grain handling industry; and (3) weevils should continue to be identified separately since they lay eggs inside wheat kernels where larvae then develop, while other live or dead insects can be readily removed by the mill cleaning process.

A majority of commenters, however, supported the proposed change. Reasons cited were: (1) OLIs can cause degeneration in the condition of the grain; (2) OLIs generally are not distinguished from weevils by receiving countries and therefore create an equally poor impression when found in large numbers; (3) local country elevators in many areas of U.S. discount weevils and OLIs equally since they both mean that fumigation likely is required; and (4) this change would simplify the grading process and remove discrepancies in the grading systems that have unfairly penalized growers in the past.

The Service believes that the difference in tolerances between weevils and OLIs, which appear in the FGIS Instructions, is difficult to support on the basis of the varying damage levels to the grain mass. There is no reasonable difference in detecting one category of insect from the other in grain. Both foreign buyers and domestic millers generally do not differentiate between insect species in infested grain. As such, the two categories of insect tolerances are not maintained and applied by major segments of the grain industry. A recent statistical analysis by the Service indicates that this change would result in little increase in the number of samples found infested at export. Using an inspection data base for marketing years 1981 through 1985, and assuming that OLIs were equivalent to weevils, it was determined that there would have been approximately a one percent increase in the samples found infested as a whole. In addition, this proposed change would complement the proposed change that would set the same tolerance, i.e., a zero tolerance, for all U.S. grain standards. The proposed changes would enhance overall grain quality to the benefit of all segments of the grain industry. Therefore, the Service proposes that the current tolerances defining infestation in grain be revised to: (1) Set the same tolerances for insects for all U.S. grain standards; and (2) treat all types of insects injurious to stored grain with equal weight in the established insect tolerances.

Accordingly, the Official U.S. Standards for Grain (7 CFR Part 810) as proposed at 51 FR 35224 and supplemental at 51 FR 41971, would be revised as follows: (1) Remove the Special grade "Infested" and the definition as it appears in the U.S. Standards for: Barley, § 810.207(f); Corn, § 810.405(c); Mixed Grain, § 810.805(d); Oats § 810.1005(g); Rye, § 810.1205(e); Sorghum, § 810.1405(a); Soybeans, § 810.1605(b); Sunflower Seed, § 810.1805; Triticale, § 810.2005(d); and Wheat, § 810.2205(c), under *Special grades and special grade requirements;* (2) incorporate the term "Infected" into Subpart A—General Provisions as § 810.108(a) under *Special grades and special grade requirements*; and (3) redefine the "Infested" designation as "a condition in which one or more live insects injurious to stored grain are found in, on, or about the lot as a whole, or in a representative sample taken from the lot."

These changes, if adopted, would be phased in commencing on May 1, 1988. The FGIS Advisory Committee has recommended that changes in the insect tolerances be phased-in over a period of time. The insect tolerance in the infested definition would be "phased in" in two-year increments. Beginning May 1, 1988, the "infested" definition would be "a condition in which three or more live insects injuries to stored grain are found in, on, or about the lot as a whole, or in a representative sample taken from the lot." Effective on May 1, 1990, the "infested" definition would be revised to "a condition in which two or more live insects injurious to stored grain are found in, on, or about the lot as a whole, or in a representative sample taken from the lot." Effective May 1, 1992, "infested" would be revised to "a condition in which one or more live insects injurious to stored grain is found in, on, or about the lot as a whole, or in a representative sample taken from the lot."

The specific conditions under which grain in the U.S. Standards for Grain (7 CFR Part 810) is considered infested would be revised and included in Subpart A—General Provisions as conditions applicable to all grains. It is proposed that the tolerances for live insects injurious to stored grain be defined according to sampling designations as follows:

(1) Representative Sample,

(2) Lot as a Whole (Stationary), and

(3) Sample as a Whole (Continuous Loading/Unloading of shiplots and bargelots).

Accordingly, the Representative Sample would include the work portion and the file sample if needed, and when available. The work portion (shiplots excluded) would be considered infested if it contains one or more live insects (effective May 1, 1988 to April 30, 1990; "three or more" effective May 1, 1990 to April 30, 1992; "two or more") injurious to stored grain. The Lot as a Whole (Stationary would be infested if three or more live insects injurious to stored grain are found in, on, or about the lot (excluding submitted samples and shiplots). The Sample as a Whole (continuous loading/unloading—shiplots and bargelots) would be infested if three or more live insects injurious to stored grain are found in 60,000 bushels. The minimum sample size to be used in determining insect infestation during continuous loading/unloading would be 500 grams for each 2,000 bushels. No less than 15,000 grams of sample representing each 60,000 bushels of grain in shiplots and bargelots would be examined for live infestation.

The infested condition for shiplot grain officially inspected would be determined on the 60,000 bushel basis independent of the quantity assigned to a sublot by the applicant. Thus, the presence of three or more live insects injurious to stored grain in a maximum of 60,000 bushels in a single shiplot would result in notifying the applicant of the options available under § 800.86(e)(1) of the regulations. Pursuant to that section, the options include unloading the infested grain, fumigation of the infested grain or certification of the grain as infested.

(b) Insect Damage in Wheat

Currently, the Service combines insect-damaged kernels with other types of damage in determining damaged kernels total. The current FGIS interpretation of insect-damaged kernels includes wheat kernels that are weevil bored, or contain dead insects, insect refuse, frass, or webbing. Insect-damaged kernels of wheat may reach nearly four percent, depending upon the amount of other damage present, yet remain within the limits allowed for damaged kernels total in U.S. No. 2 wheat. Under more severe conditions, up to 15 percent of the kernels could be insect-damaged before such wheat would be found to be Sample grade. The Food and Drug Administration (FDA) has developed food defect action levels. One of the defect action levels (DAL) applies to wheat. The DAL for wheat is 32 insect-damaged kernels in 100 grams of wheat. This DAL, which corresponds to approximately one percent insect-damaged kernels, represents the limit at or above which the FDA take action to remove the product from the market. Normally, more than 100 insect-damaged kernels in 100 grams of wheat are required to make up the 4.0 percent damaged kernels total allowed by the standards for U.S. No. 2 wheat.

The July 7, 1986, notice requested public comment on whether to create a separate grade factor in the wheat standards to limit insect-damaged kernels. In that notice, reference was made to the DAL for wheat. A minority of commenters opposed this recommendation and stated that: (1) insect-damaged kernel analysis is not requested by foreign buyers nor have there been complaints relating to insect-damaged kernels; (2) the option to receive insect-damaged kernel information on the official certificates is not exercised in the majority of contracts with domestic millers or foreign buyers; (3) a separate grade factor for insect-damaged kernels will allow grain handlers to place additional price penalties directly on the growers; and (4) creating a separate factor for insect-damaged kernels would not enhance the ability to estimate the extent of infestation beyond the information currently available.

A majority of commenters supported the proposal to create a separate grade factor in the wheat standards. Several commenters referenced earlier recommendations made by the Millers' National Federation, including proposals to establish a separate grade factor based on a count of a 60-gram sample with specific maximum limits, and to expand the definition of insect-damaged kernels to include insect-damaged germ. Other commenters suggested that insect infestation is a major problem because the grading system combines insect damage with other types of damage rather than dealing directly with insect damage.

The Service believes that revising the official wheat standards to create a separate grade factor for insect-damaged kernels has merit. Insect-damaged kernels in wheat are of concern to the grain industry, the Service and FDA. Combining insect-damaged kernels with all damaged kernels (total) permits comparatively high levels of insect-damage in the various grade levels which are in excess of present DAL levels permitted by the FDA. The proposed change would correspond to the DAL for wheat by providing for a sample grade designation when insect-damaged kernels reach the levels stated in the FDA. This proposed change would provide more specific information for the grain industry.

Accordingly, § 810.2204(a) *Grades and grade requirements* for all classes of

wheat, except Mixed Wheat in Subpart L— U.S. Standards for Wheat as proposed at 51 FR 35224, would be revised to include in the Sample grade definition a limit equivalent to 32 insect-damaged kernels per 100 grams of representative sample. It is proposed that a three-stage sampling plan, using 15 grams of the sample work portion in both the first and second stages and 60 grams in the final stage, be employed to determine whether the stated limit of insect-damaged kernels is exceeded. The specific damaged-kernel counts procedures to be used will appear in FGIS Instructions.

(c) Limit on Total Insects

Other than the limits currently set to determine the special grade "weevily" or "infested", the U.S. Standards for Grain (7 CFR Part 810) contain no specified limit for insects injurious to stored grain.

Larvae and adult insects are considered either foreign material or dockage. However, because of their weight, insects generally represent a very small portion of these two factors. In discussions with the industry, comments have been made to the Service objecting to the present shiploading inspection procedure on the basis that this procedure allows an unlimited number of dead insects. Section 800.86(e) of the regulations does provide for several options when grain is found to be infested in a shiplot. Options include, completing the loading of grain and treating all grain in the lot or treating the infested grain subject to subsequent examinaton by official personnel. These options allow treatment of infested grain on shiplots by fumigation to destroy live insects, which permits the shiplot to be certificated without the special grade designation of "infested." Shipboard fumigation procedures can result in a high number of dead insects. High levels of dead insects are of concern to the Service and the grain industry, including foreign buyers. The proposed limit on total insects would maintain the integrity of the shipboard fumigation procedure and would enhance the overall quality of grain by identifying as U.S. Sample grade those shipments with amounts of ten or more insects (live or dead). An analysis of 2316 lots of wheat loaded for export during FY 1986 shows that 19 percent of the lots contained live insect infestation. Of those lots with live insects, only 19 (0.8 percent of all wheat lots reviewed) contained 10 or more live insects per sublot. Of these only one lot of wheat contained sublots in which the number of live insects per 1000 grams of representative sample exceeded an average of 10. Also, preliminary random sampling of approximately 500 samples from 11 FGIS Field Offices indicates that 1.7 percent of the samples would exceed the proposed limits of 10 live or dead insects. The proposed limit of 10 live or dead insects per 1000 grams of representative sample is based on the above data and, in part, on the observation that infested samples tend to contain either mostly live insects or mostly dead insects, rather than equal numbers of live and dead insects.

Therefore, the Service proposes that the proposed U.S. Standards for Grain as published at 51 FR 35224 and 51 FR 41971, be further revised to include a limit to 10 or more insects (live or dead) per 1,000 grams of representative sample in the U.S. Sample grade definition for each grain affected except sunflower seed. The limit of 10 or more live or dead insects would be based on 600 grams of representative sample for sunflower seed. This overall limit on insects would appear in the Official U.S. Standards for Grain under the Grades and grade requirements sections as follows: Barley, § 810.206; Corn, § 810.404; Flaxseed, § 810.604; Mixed Grain, § 810.804; Oats, § 810.1004; Rye, § 810.1204; Sorghum, § 810.1404; Soybeans, § 810.1604; Sunflower Seed, § 810.1804; Triticale, § 810.2004; and Wheat, § 810.2204.

In addition, miscellaneous changes are proposed to correct and clarify provisions as proposed October 2, 1986, in order to provide for uniform language in the standards.

Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 75(b)) of the Act, upon request, such information may be orally presented in an informal manner. Also, pursuant to section 4(b) of the Act, no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation unless in the judgment of the Administrator, the public health, interest, or safety require that they become effective sooner. If adopted, the Service intends that these changes should become effective on May 1, 1988, to coincide as nearly as practicable with the beginning of the crop year for the various grains.

List of Subjects in 7 CFR Part 810

Export, Grain.

Accordingly, it is proposed that 7 CFR Part 810 as proposed at 51 FR 35224, October 2, 1986 and 51 FR 41971, November 20, 1986 be further amended as follows:

PART 810—OFFICIAL U.S STANDARDS FOR GRAIN

1. The authority citation for 7 CFR Part 810 continues to read as set forth below:

Authority: Secs. 3A and 4, United States Grain Standards Act (7 U.S.C. 75a, 76).

Subpart A—General Provisions

2. Section 810.108 is revised to read as follows:

§ 810.108 Special grades and special grade requirements.

A special grade serves to draw attention to a special factor or condition present in the grain and, when applicable, is supplemental to the grade assigned under § 810.107. Except for the special grade "infested," the special grades are identified and requirements are established in each respective grain standard.

(a) *Infested grain.* A condition in which one or more (effective for the period May 1, 1988 through April 30, 1990, "three or more"; effective for the period May 1, 1990 through April 30, 1992, "two or more") live insects injurious to stored grain are found in, on, or about the lot as a whole, or in a representative sample taken from the lot. Tolerances for live insects responsible for infested grain are defined according to sampling designations as follows:

(1) *Representative sample.* The work portion and the file sample, if needed, and when available. The work sample (other than shiplots) is considered infested when it contains one or more (effective May 1, 1988 through April 30, 1990, "three or more"; effective May 1, 1990 through April 30, 1992, "two or more") live insects injurious to stored grain.

(2) *Lot as a Whole (Stationary).* The lot as a whole is considered infested when one or more" (effective May 1, 1988 though April 30, 1990, "three or more"; effective May 1, 1990 through April 30, 1992, "two or more") live insects injurious to stored grain are found in, on, or about the lot (excluding submitted samples and shiplots).

(3) *Sample as a Whole (Continuous loading/unloading of shiplots and bargeglots).* The minimum sample size for both shiplots and bargelots is 500 grams per each 2,000 bushels of grain. The sample as a whole is considered infested when it contains one or more (effective May 1, 1988 through April 30, 1990, "three or more"; effective May 1, 1990 through April 30, 1992, "two or more") live insects injurious to stored grain in each 60,000 bushels.

Subpart B—U.S. Standards for Barley

3. Section 810.206 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade Barley as follows:

§ 810.206 Grades and grade requirements for the subclasses Six-rowed Barley, Two-rowed Barley, and the class Barley.

* * * * *

(b) Contains 8 or more stones that have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds *Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 8 or more cocklebures (*Xanthium* spp.) or similar seeds singly or in combination, 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of barley; or

* * * * *

§ 810.207 [Amended]

4. Section 810.207 is amended by removing paragraph (d) and redesignating paragraphs (e) as (d).

Subpart C—U.S. Standards for Corn

5. Section 810.404 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade Corn as follows:

§ 810.404 Grades and grade requirements for Corn.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds *Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 8 or more cocklebures (*Xanthium* spp.) or similar seeds singly or in combination, 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of corn; or

* * * * *

§ 810.405 [Amended]

6. Section 810.405 is amended by removing paragraph (c) and redesignating paragraph (d) as (c).

Subpart D—U.S. Standards for Flaxseed

7. § 810.604 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade Flaxseed as follows:

§ 810.604 Grades and grade requirements for Flaxseed.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 4 ore more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of flaxseed; or

* * * * *

Subpart E—U.S. Standards for Mixed Grain

8. Section 810.804 is amended by revising part of the definition, (b)(3), that defines U.S. Sample grade Mixed Grain as follows:

§ 810.804 Grades and grade requirements.

* * * * *

(b) *U.S. Sample grade Mixed Grain.*

* * * * *

(3) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 8 or more cocklebures (*Xanthium* spp.) or similar seeds signly or in combination, 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of mixed grain; or

* * * * *

§ 810.805 [Amended]

9. Section 810.805 is amended by removing paragraph (d) and redesignating paragraphs (e) and (f) as paragraphs (d) and (e).

Subpart F—U.S. Standards for Oats

10. Section 810.1004 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade Oats as follows:

§ 810.1004 Grades and grade requirements for Oats.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 8 or more cocklebures (*Xanthium* spp.) or similar seeds singly or in combination, 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more liver or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of oats; or

* * * * *

§ 810.1005 [Amended]

11. Section 810.1005 is amended by removing paragraph (g) and redesignating paragraphs (h) and (i) as paragraphs (g) and (h).

Subpart G—U.S. Standards for Rye

12. Section 810.1204 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade Rye as follows:

§ 810.1204 Grades and grade requirements for Rye.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams or rye; or

* * * * *

§ 810.1205 [Amended]

13. Section 810.1205 is amended by removing paragraph (e) and redesignating paragraphs (f) and (g) as paragraphs (e) and (f).

Subpart H—U.S. Standards for Sorghum

14. Section 810.1404 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade sorghum as follows:

§ 810.1404 Grades and grade requirements for Sorghum.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, or or 3 more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substances(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird dropings, or equivalent quantity of other animal filth per 1,000 grams of sorghum; or

* * * * *

§ 810.1405 [Amended]

15. Section 810.1405 is amended by removing paragraph (a) and redesignation paragraph (b) as an undersignated paragraph.

Subpart I—U.S. Standards for Soybeans

16. Section 810.1604 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade Soybeans as follows:

§ 810.1604 Grades and grade requirements for Soybeans.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of soybeans; or

* * * * *

§ 810.1605 [Amended]

17. Section 810.1605 is amended by removing paragraph (b) and redesignation paragraph (a) as an undesignated paragraph.

Subpart J—U.S. Standards for Sunflower Seed

18. Section 810.1804 is amended by revising definition (b) in the portion of the grade chart that defines U.S. Sample grade Sunflower Seed as follows:

§ 810.1804 Grades and grade requirements for Sunflower Seed.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird dropping, or equivalent quantity of other animal filth per 600 grams of sunflower seed; or

* * * * *

§ 810.1805 [Amended]

19. Section 810.1805 *Special grades and special grade requirements* is removed from Subpart J—U.S. Standards for Sunflower Seed.

Subpart K—U.S. Standards for Triticale

20. Section 810.2004 is amended by revising definition (b) in the portion of the grade chart that defines Sample grade triticale as follows:

§ 810.2004 Grades and grade requirements for Triticale.

* * * * *

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of triticale; or

* * * * *

§ 810.2005 [Amended]

21. Section 810.2005 is amended by removing paragraph (d) and redesignating paragraphs (e) and (f) as paragraphs (d) and (e).

Subpart L—U.S. Standards for Wheat

22. Section 810.2204 is amended by redesignating definitions (b), (c), and (d) as definitions (c), (d), and (e); adding a new definition (b) and revising redesignated paragraph (c) as follows:

§ 810.2204 Grades and grade requirements for wheat.

* * * * *

(b) Contains 32 or more insect-damaged kernels per 100 grams of wheat; or

(c) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.) 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more live or dead insects injurious to stored grain, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of wheat; or

* * * * *

§ 810.2205 [Amended]

23. Section 810.2205 is amended by removing paragraph (c) and redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e).

Dated: March 4, 1987.

W. Kirk Miller,

Administrator.

[FR Doc. 87-5739 Filed 3-17-87; 8:45 am]

BILLING CODE 3410-EN-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket Nos. PRM-50-45 and PRM-50-46]

Kenneth G. Sexton and the State of Maine; Petitions for Rulemaking; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Petitions for rulemaking: Extension of comment period.

SUMMARY: The Nuclear Regulatory Commission is extending the comment period on two petitions for rulemaking (PRM-50-45) filed by Kenneth G. Sexton and (PRM-50-46) filed by the State of Maine. The Commission has been requested to extend the comment period in order to provide more time for the public to submit comments. The two petitions request that the Commission amend its regulations that pertain to emergency planning.

DATES: The comment period for PRM-50-45 and PRM-50-46 has been extended to April 15, 1987. Comments received after this date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: A copy of each petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555. A copy of each petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

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

FOR FURTHER INFORMATION CONTACT: Sarah N. Wigginton, Acting Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301 492-7752 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: On October 6, 1986 (51 FR 35518), the NRC published a notice of a petition for rulemaking filed by Kenneth G. Sexton. The petition requested the Commission to amend its regulations to require that current methodologies and analytical techniques be used to reevaluate the established Emergency Planning Zone (EPZ) for nuclear power plants. The notice requested public comment on the petition and established a comment closing date of December 5, 1986. The comment period for this petition was extended to March 9, 1987.

On December 30, 1986 (51 FR 47026), the NRC published a notice of a petition for rulemaking filed by the State of Maine. The petitioner requested the Commission to amend its regulations in three areas pertaining to emergency

planning. The notice requested public comment on the petition and established a comment closing date of March 2, 1987.

The Commission has been requested to extend the comment period for both petitions in order to provide more time to submit comments. This notice extends the comment period for both petitions for rulemaking.

Dated at Washington, DC this 12th day of March, 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 87-5816 Filed 3-17-87; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 852 3278]

Plas-Tix USA, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment; Order to Cease and Desist

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Miamisburg, Ohio manufacturer of lighter-to-lighter automobile battery chargers from claiming that the chargers are jumper cables or that they can restart a disabled vehicle as quickly as jumper cables. Respondent would also be required to make specified disclosures on its packaging and in advertisements for a period of five years.

DATE: Comments will be received until May 18, 1987.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/H-238A, Allen Hile, Washington, DC 20580. (202) 326-3122.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. [illegible] and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Lighter-to-lighter auto battery chargers, Trade practices.

Order to Cease and Desist

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

It Is Hereby Agreed by and between Plas-Tix USA, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Plas-Tix USA, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 510 South Riverview, Miamisburg, Ohio 45342.

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

3. Proposed respondent waives:

(a) Any further procedural steps;

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

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

(d) Any claim under the equal Access to Justice Act, 5 U.S.C. 504.

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

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

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

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

Order

For the purpose of this Order,

a. "Lighter-to-lighter charger" means any device to be used to recharge the battery in a disabled vehicle by connection to an operating vehicle through the cigarette lighter receptacles of both vehicles;

b. "Distribution" means any person who purchases or receives on consignment from Plas-Tix lighter-to-lighter chargers for resale;

c. "Dealer" means any person who purchases, or receives on consignment from a distributor, lighter-to-lighter chargers for resale to the public; and

d. "Person" means any individual, partnership, corporation, firm, trust, estate, cooperative, association, or other entity.

I

It Is Ordered that respondent Plas-Tix USA, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale, or distribution of Safe-T-Start or any other lighter-to-lighter charger in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

a. That any such lighter-to-lighter charger is a jumper cable;

b. That any such lighter-to-lighter charger can restart a disabled vehicle as quickly as jumper cables;

c. That any such lighter-to-lighter charger can recharge a battery in any specified length of time, unless:

1. The representation is accomplished by a clear and prominent statement disclosing whether the specified time is a maximum, minimum, typical, or other such time, and that older batteries or colder temperatures may increase charging times; and

2. At the time the representation is made, respondent possesses and relies upon a reasonable basis for the representation which shall consist of competent and reliable evidence which substantiates such representation; provided, however, that to the extent such evidence of a reasonable basis consists of any scientific or professional test, experiment, analysis, research, study or other evidence based on the expertise of professionals in the relevant area, such evidence shall be "competent and reliable" for purposes of this paragraph only if the test, experiment, analysis, research, study, or other evidence is conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

d. Any performance characteristic of any lighter-to-lighter charger unless, at the time the representation is made, respondent possesses and relies upon a reasonable basis for the representation which shall consist of competent and reliable evidence which substantiates such representation; provided, however, that to the extent such evidence of a reasonable basis consists of any scientific or professional test, experiment, analysis, research, study or other evidence based on the expertise of professionals in the relevant area, such evidence shall be "competent and reliable" for purposes of this paragraph only if the test, experiment, analysis, research, study, or other evidence is conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

II

It Is Further Ordered that respondent Plas-Tix USA, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of the Safe-T-Start or any other lighter-to-lighter charger in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith and for a period of five (5) years from the date of this order cease and desist from failing to disclose clearly and conspicuously on the packaging of each such lighter-to-lighter charger and clearly and prominently in each solicitation for the sale of such lighter-to-lighter charger either:

(a) The following information expressed in the exact language set forth below in ten point or larger bold face type:

"This product is not a jumper cable and will not instantly start your car. It must first recharge your battery. Older batteries or colder temperatures may increase charging times. Consult the operating instructions for charging times." or

(b) The specific length of time required to recharge a battery, accompanied by a statement disclosing whether the specified time is a maximum, minimum, typical, or other such time, and that older batteries or colder temperatures may increase charging times.

III

It Is Further Ordered that Plas-Tix USA, Inc., its successors and assigns, shall within thirty (30) days after the date of service of this Order:

a. Provide each distributor with labels which contain the disclosure required by Part II of this Order in ten point or larger bold face type in sufficient quantity to cover the existing inventory of Safe-T-Start and other lighter-to-lighter chargers manufactured by Plas-Tix of:

(1) The distributor; and

(2) Each dealer who purchased or received on consignment Safe-T-Start of other ligher-to-lighter chargers from such distributor; and

b. Instruct each distributor to affix, and use its best efforts to ensure that each distributor affixes, the label described in Part III a of this Order to the packaging of each Safe-T-Start of other lighter-to-lighter charger manufactured by Plas-Tix that is in the inventory of that distributor, and to each such lighter-to-lighter charger in the inventory of each dealer who purchased or received on consignment Safe-T-Start or other lighter-to-lighter chargers manufactured by Plas-Tix from such distributor.

IV

It Is Further Ordered, that Plas-Tix USA, Inc., its successors and assigns, shall distribute a copy of this Order to each present and future officer, employee, agent and representative having sales, advertising, or policy making responsibilities for any lighter-to-lighter charger and secure from each such person a signed statement acknowledging receipt of said Order.

V

It Is Further Ordered that Plas-Tix USA, Inc., its succesors and assigns, shall maintain for at least three years and upon request make available to the Federal Trade Commission for inspection and copying the originals of signed statements required by Part IV of this Order and copies of all test results, data, and other documents or information relied upon for any representation for any lighter-to-lighter charger and any information in the possession of Plas-Tix which contradicts, qualifies or calls into serious question that representation.

VI

It Is Further Ordered that respondent Plas-Tix USA, Inc., shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

VII

It Is Further Ordered that respondent shall, within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting

forth in detail, the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Plas-Tix USA, Inc.

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

Plas-Tix USA, Inc. (Plas-Tix) manufactures lighter-to-lighter automobile battery chargers and sells them to distributors and dealers who in turn sell them to consumers. Lighter-to-lighter chargers consist of a length of ordinary household appliance wire with a plug at either end that fits into automobiles' cigarette lighter receptacles. These chargers are intended to supply electrical current from an operating car to recharge a discharged battery in a disabled car.

According to the complaint, Plas-Tix represents that its lighter-to-lighter chargers jumper cables, and that lighter-to-lighter chargers can restart a disabled vehicle as quickly as jumper cables. The complaint alleges that this representation is deceptive and in violation of section 5 of the Federal Trade Commission Act because lighter-to-lighter chargers are not jumper cables and take significantly longer than jumper cables to restart a vehicle, even under the most favorable circumstances.

The complaint also states that Plas-Tix makes claims regarding the amount of time necessary to restart a disabled vehicles using its lighter-to-lighter chargers. The complaint alleges that Plas-Tix, in violation of section 5 of the Federal Trade Commission Act, lacks a reasonable basis to believe that those claims are true and accurate.

The proposed would prohibit Plas-Tix from representing that its lighter-to-lighter chargers are jumper cables or that they can restart a disabled vehicles as quickly as jumper cables. The order would also require Plas-Tix to refrain from making charging time claims or any other performance claims about its lighter-to-lighter chargers unless it possesses and relies upon competent and reliable evidence which substantiates such claims.

In order to prevent deception of consumers as to the actual amount of time that can reasonably be expected for recharging a disabled vehicle's battery using a lighter-to-lighter charger, the order requires Plas-Tix to accompany any charging time claims with a statement as to whether the stated charging time is a maximum, minimum, typical, or other such time.

In addition, the proposed order would require Plas-Tix to disclose in its advertising and on its product packaging the fact that battery age and low temperatures may increase charging times, and either a statement that the device is not a jumper cable and will not instantly start a car, with a reference to consult the operating instructions for actual charging times, or a statement of actual substantiated charging times. The order would also require that Plas-Tix provide its distributors and dealers with labels disclosing this information, and use its best efforts to assure that the labels are affixed to its lighter-to-lighter chargers that are in the inventory of such distributors and dealers.

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

Emily H. Rock,

Secretary

[FR Doc. 87-5746 Filed 3-17-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4, 11 and 375

[Docket No. RM87-6-000]

Fees for Hydroelectric Project Applications To Reimburse Fish and Wildlife Agencies

March 11, 1987.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a notice of proposed rulemaking establishing fees to be paid by an applicant for a hydroelectric project that is required to meet terms and conditions set by the Fish and Wildlife Service, the National Marine Fisheries Service and state fish and wildlife agencies.

DATE: Comments must be in writing and received by the Secretary of the Commission prior to 4:30 p.m. E.D.T. on May 18, 1987. An original and fourteen copies should be filed.

ADDRESS: All filings should refer to Docket No. RM87-6-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to adopt new regulations governing applications for licenses and exemptions to implement section 7(c) of the Electric Consumers Protection Act of 1986 (ECPA),[1] which amended section 30 of the Federal Power Act (FPA).[2] Under the proposed rule, license and exemption applications for projects required to meet the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA, as amended by section 7(b) of ECPA, would reimburse the National Marine Fisheries Service (NMFS), the United States Fish and Wildlife Service (USFWS), and the State agency responsible for fish and wildlife resources (State FW) for any reasonable costs incurred in setting mandatory terms and conditions. The Commission is also proposing that any such fees paid by license and exemption applicants to the National Marine Fisheries Service and the United States Fish and Wildlife Service would be deducted from the total annual charge assessed against licensees under section 10(e) of the FPA for the costs of administering Part I of the FPA. The Commission is proposing to amend 18 CFR 4.38, and to add a new Subpart M to 18 CFR Part 4, a new subparagraph (4) to 18 CFR 4.32(c), a new paragraph (f) to 18 CFR 11.01, and a new paragraph (ff) to 18 CFR 375.314.

II. Statutory Background

ECPA was enacted on October 16, 1986. Section 7(c) of ECPA amends section 30 of the FPA to add a new subsection 30(e). Section 30(e) of the FPA requires the Commission to establish fees to be paid by applicants for license or exemption for projects required to meet the terms and conditions set by fish and wildlife agencies under section 30(c) of the FPA, as amended by section 7(b) of ECPA. Section 30(e) of the FPA provides that such fees shall be adequate to reimburse the fish and wildlife agencies referred to in section 30(c) of the FPA for any reasonable costs incurred in connection with studies or reviews carried out by such agencies for purposes of

[1] Pub. L. No. 99-495 (Oct. 16, 1986).

[2] 16 U.S.C. 823a.

compliance with section 30(c) of the FPA.[3]

The fee provision set forth in section 30(e) of the FPA applies to applicants for projects "required to meet the terms and conditions set by fish and wildlife agencies under [section 30(c) of the FPA]" (section 30(c) applicants). Projects within the ambit of section 30(c) of the FPA must meet those terms and conditions that USFWS, NMFS, and State FW each determine are appropriate for the protection of fish and wildlife resources.[4] The terms and conditions recommended by these agencies are commonly referred to as "mandatory terms and conditions."

Prior to ECPA's enactment, two categories of applicants were subject to the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA. These included applicants for an exemption from licensing under section 30 of the FPA (conduit exemptions) and applicants for an exemption from licensing under sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (PURPA), as amended by section 408 of the Energy Security Act of 1980 (5-MW exemptions).[5] Section 8 of ECPA amends section 210 of PURPA to establish a third category of applicants subject to the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA. Section 8(a) of ECPA adds a new subsection (j) to section 210 of PURPA. Under section 210(j)(3) of PURPA, projects located at a new dam or diversion must "[meet] the terms and conditions set by fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act" in order to be eligible for benefits under section 210 of PURPA (PURPA benefits). Thus, in addition to conduit exemption applicants and 5-MW exemption applicants, license applicants seeking PURPA benefits for projects located at a new dam or diversion are now within the ambit of section 30(c) of the FPA.[6]

Section 8(b) of ECPA excepts four classes of projects located at a new dam or diversion from having to meet the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA in order to be eligible for PURPA benefits. These include: (1) Projects for which the application was filed and accepted before the date of enactment of ECPA; [7] (2) projects for which the application was filed before the date of ECPA's enactment but accepted for filing within 3 years after the date of enactment; [8] (3) projects for which the application was filed after the date of ECPA's enactment but before April 16, 1988, if the applicant can successfully demonstrate that it had committed substantial monetary resources relating to the filing of an acceptable application before to the date of enactment; [9] and (4) projects located at a Government dam at which non-Federal hydroelectric development is permissible.[10] The fee requirement of section 30(e) of the FPA does not apply to any new dam or diversion license applicants seeking PURPA benefits that fall within the four classes, since such applicants are excepted from having to meet the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA. With regard to exemptions, however, section 8(c) of ECPA provides that nothing in ECPA shall affect the application of section 30(c) of the FPA to any exemption issued after the enactment of ECPA. Pursuant to section 8(c) of ECPA, no new dam or diversion exemption applicants seeking PURPA benefits are excepted from having to meet the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA. The fee requirement of section 30(e) of the FPA therefore applies to all exemption applicants.[11]

The Commission is proposing to amend Part 4 of the Commission's regulations to implement the requirements of section 30(e) of the FPA.

III. The Proposed Rule

A. Procedures for Fish and Wildlife Agencies to Submit Mandatory Terms and Conditions for Licensed Projects Located at a New Dam or Diversion Obtaining PURPA Benefits

The Commission's regulations governing 5-MW and conduit exemption applications provide that, at the time an exemption applicant is notified that its application is accepted for filing, the Commission will circulate the public notice of acceptance for filing of the application [12] to interested agencies, including fish and wildlife agencies.[13] These regulations require fish and wildlife agencies to submit specific mandatory terms and conditions to be included in an exemption within 45 days (in the case of conduit exemptions) or 60 days (in the case of 5-MW exemptions) after the date of issuance of the public notice of acceptance for filing of the exemption application.[14] If a fish and wildlife agency does not comment within the prescribed time period, that agency is presumed to have determined that no terms and conditions, except those terms and conditions already included in the environmental report of the filed application, are necessary for the proposed project.

Pursuant to section 8 of ECPA, fish and wildlife agencies also have mandatory conditioning authority over projects proposed by new dam or diversion license applicants seeking PURPA benefits. In order to establish a consistent fee structure for all section 30(c) applications, the Commission is proposing fish and wildlife conditioning procedures for projects proposed by new dam or diversion license applicants seeking PURPA benefits consistent with

[3] Section 30(e) of the FPA states:

[t]he Commission, in addition to the requirements of section 10(e), shall establish fees which shall be paid by an applicant for a license or exemption for a project that is required to meet the terms and conditions set by fish and wildlife agencies under subsection (c). Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and shall remain available until expended. [Emphasis added.]

[4] Prior to its amendment by ECPA, section 30(c) of the FPA authorized only USFWS and State FW to set mandatory terms and conditions. Section 7(b) of ECPA amends section 30(c) of the FPA to include NMFS as an agency with mandatory conditioning authority.

[5] 16 U.S.C. 2705, 2708.

[6] This new third category of section 30(c) applicants may also include some 5-MW exemption applicants, since projects requiring the construction of certain new diversion structures may qualify for an exemption from licensing under the 5-MW exemption program. *see, Pigeon Cove*, 30 FERC ¶ 61,253 (1985). However, since conduit exemptions granted under section 30 of the FPA do not include "any dam or other impoundment" (*see* section 30(a) of the FPA), conduit exemption applicants would not fall within this third category. In any event, 5-MW and conduit exemption applicants are within the original two categories of section 30(c) applicants.

[7] *See* section 8(b)(2) of ECPA.

[8] *See* section 8(b)(3) of ECPA.

[9] *See* section 8(b)(4) of ECPA.

[10] *See* section 8(a) of ECPA.

[11] Section 8(d) of ECPA requires the Commission to conduct a study of whether PURPA benefits should be available to hydroelectric projects located at a new dam or diversion. Section 8(e) of ECPA imposes a moratorium during which no such project may receive PURPA benefits while the study is being undertaken. The moratorium will end at the expiration of the first full session of Congress following the session during which the Commission reports to Congress the results of the study. However, the four classes of new dam or diversion license applicants excepted from having to meet the terms and conditions of fish and wildlife agencies under section 30(c) of the FPA in order to obtain PURPA benefits are also excepted from this moratorium.

[12] When an application for license, exemption, or preliminary permit is accepted for filing, the Commission issues a public notice of acceptance for filing of the application.

[13] *See* §§ 4.93 and 4.105.

[14] The issued public notice reflects the appropriate deadline for fish and wildlife agencies to submit terms and conditions.

the current conditioning procedures for projects proposed for exemption. Thus, at the time a new dam or diversion license application seeking PURPA benefits is accepted for filing, the Commission would circulate the public notice of acceptance for filing of the application to interested agencies, including fish and wildlife agencies. Because the Commission's regulations provide fish and wildlife agencies with a 60-day period to submit mandatory terms and conditions for a proposed 5-MW exemption, the Commission believes that 60 days is also a reasonable period of time for fish and wildlife agencies to submit mandatory terms and conditions for a project proposed by a new dam or diversion license applicant seeking PURPA benefits. Accordingly, the Commission is proposing to require fish and wildlife agencies to submit specific mandatory terms and conditions to be included in a new dam or diversion license within 60 days after the issuance of the public notice of acceptance for filing of the license application.[15] Those fish and wildlife agencies that do not comment within the prescribed time period would be presumed to have determined that no terms and conditions, except those already included in the environmental report of the filed application, are necessary for the proposed project.

B. New Requirements for License and Exemption Applicants for Projects Required to Meet the Terms and Conditions of Fish and Wildlife Agencies Under Section 30(c) of the Federal Power Act

1. General Procedures and Requirements

Pursuant to section 7(c) of ECPA, the Commission is proposing to require a section 30(c) applicant to reimburse fish and wildlife agencies for all reasonable cost these agencies incur in setting mandatory terms and conditions for a proposed project. Since pre-filing agency consultation under § 4.38 of the Commission's regulations is an essential part of the Commission's agency consultation and review process,[16] the Commission is proposing to include as reimbursable the reasonable costs incurred by fish and wildlife agencies during pre-filing consultation, as well as the reasonable costs incurred by those agencies after an application is filed.

The Commission believes that a prospective section 30(c) applicant needs to have some idea, before it files an application, of the expenditures it will later have to make for fish and wildlife agency costs. The Commission also believes that, at the time a fish and wildlife agency provides final comments upon a draft section 30(c) application,[17] the agency will be familiar enough with the proposed project to give the prospective applicant a reasonable estimate of all costs the agency will incur in connection with the application. Accordingly, the Commission is proposing to require fish and wildlife agencies to include a reasonable estimate of all costs they anticipate incurring in connection with a section 30(c) application in their final comments upon the draft application. A fish and wildlife agency would not later be bound by its pre-filing cost estimate.

The Commission's pre-filing agency consultation regulations require a prospective applicant to conduct certain categories of studies prior to filing an application.[18] If a prospective applicant files its application without having performed a particular study requested by an agency, and the Commission determines that the study not performed is reasonably necesary,[19] the application is deficient. The applicant is required to conduct the necessary study and reconsult with agencies before its application may be accepted for filing. The Commission is not proposing to shift the burden of conducting necessary studies from the section 30(c) applicant to the agencies. The section 30(c) applicant itself would remain responsible for ensuring that all necessary studies are conducted and for providing the Commission with the results of such studies. However, the Commission is proposing to include any reasonable review costs fish and wildlife agencies incur in connection with necessary studies in the fees collected on behalf of these agencies. The collected fees would also include any study costs incurred by a fish and wildlife agency in the event that a section 30(c) applicant and a fish and wildlife agency decide between themselves that the agency should conduct parts or all of a necessary study.

The Commission is concerned that a section 30(c) applicant may file an application without ensuring that it has or will have the monetary resources necessary to reimburse fish and wildlife agencies for costs incurred in setting mandatory terms and conditions for its proposed project. To reduce the possibility that fish and wildlife agencies may not adequately be compensated for cost incurred in setting mandatory terms and conditions, the Commission is proposing to require a section 30(c) application to be accompanied be a fee in an amount equal to 50 percent of the pre-filing cost estimates provided by fish and wildlife agencies with their final comments upon the draft application. The amount of the fee would be offset against the final amount due for fish and wildlife agency costs. Any section 30(c) application that is not accompanied by a fee in the appropriate amount would be rejected.

The Commission's regulations require fish and wildlife agencies to submit mandatory terms and conditions for a proposed project within a specified number of days after the issuance of the public notice of acceptance for filing of an application.[20] Accordingly, the Commission is proposing to require fish and wildlife agencies to inform the Commission of the costs that they have incurred in setting mandatory terms and conditions for a proposed project within

[15] The issued public notice will reflect this 60-day deadline.

[16] Section 4.38 of the Commission's regulations sets forth the minimum steps that applicants for license or exemption must take before filing an application to consult adequately with appropriate agencies, including fish and wildlife agencies.

[17] *See* § 4.38(b)(2)(iv).

[18] Section 4.38(c)(2)(i).

[19] Section 4. 38 was promulgated in Order No. 413. Application for License, Permit or Exemption from Licensing for Water Power Projects, 50 FR 11,658 (Mar. 24, 1985) (Order No. 413). In the preamble to Order No. 413, the Commission stated that, when applicants and agencies disagree over which studies applicants must do before the agencies are able to review proposed plans, the Commission makes the final decision on whether particular studies are necessary, giving great weight to a consulted agency's determination that a particular study is necessary. As to exemption applications, however, the Commission noted that, in light of its decision in Olympus Energy Corporation, 26 FERC ¶ 61,407 (1984), the fish and wildlife agencies are to determine which studies concerning fish and wildlife resources must be completed before they can review such applications. In Olympus, the Commission determined that section 30(c) of the FPA placed the analysis and mitigation of exempted projects' adverse environmental effects on fish and wildlife resources within the exclusive purview of the statutorily designated fish and wildlife agencies. In the recent Scott Paper Company decision, 37 FERC § 61,216 (1986), the Commission reconsidered Olympus and concluded that the Commission is required by the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c), to independently review all potential environmental impacts of projects proposed for exemption, including impacts on fish and wildlife resources. The Commission therefore found that, with such projects, it was no longer necessary or appropriate for the Commission to defer completely to the statutorily designated fish and wildlife agencies regarding the protection of fish and wildlife resources. Thus, in cases in which a section 30(c) applicant files an application without having performed a particular study requested by a fish and wildlife agency, the Commission will, as it does with non-section 30(c) applications, make the final decision on whether the study is reasonably necessary, giving proper deference to the expertise of the agency.

[20] See the discussion in Part III. A., *supra*.

45 days after the prescribed deadline for filing mandatory terms and conditions. The Commission believes that 45 days after the deadline for filing mandatory terms and conditions is a reasonable period of time for fish and wildlife agencies to assess the costs that they have incurred in setting such terms and conditions.[21]

The Commission is proposing that, within 45 days after the prescribed deadline for filing mandatory terms and conditions, a fish and wildlife agency would be required to submit to the Commission a cost statement of all reasonable costs the agency incurred in setting mandatory terms and conditions.[22] The Commission is proposing to require each cost statement to be accompanied by supporting documentation containing a detailed itemization of the costs incurred, including but not limited to, costs of field work and testing, contract costs, travel expenses, and personnel costs. Upon receipt of all cost statements and supporting documentation, the Commission would submit an itemized bill to the section 30(c) applicant. The bill would set forth the amount specified in each fish and wildlife agency cost statement and the amount paid by the section 30(c) applicant at the time of filing. The bill would also set forth either the amount due, if the amount paid by the applicant at the time of filing is less than the total of all of the costs statements, or the amount to be refunded to the applicant, if the amount paid by the applicant at the time of filing is more than the total of all of the cost statements. If the amount paid by the applicant at the time of filing is more than the total of all of the cost statements, the Commission would refund the excess amount to the applicant within 45 days from the date of the bill. If the amount paid by the applicant at the time of the filing is less than the total of all of the cost statements, the applicant would have 45 days to submit a payment to the Commission of the amount due. Upon receipt of such payment, the Commission would distribute reimbursements to the appropriate fish and wildlife agencies.

The Commission is also proposing that, if a section 30(c) applicant withdraws its filed application before the prescribed deadline for fish and wildlife agencies to submit mandatory terms and conditions for the proposed project, the former applicant would be required to reimburse the appropriate fish and wildlife agencies for any reasonable costs incurred prior to the withdrawal of the application. Similarly, if the Commission rejects a filed section 30(c) application because of deficiencies in the application,[23] the former applicant would be required to reimburse the appropriate fish and wildlife agencies for all reasonable costs incurred prior to the rejection of the application. However, a potential section 30(c) applicant that decided not to file its applications after having completed some or all of the pre-filing agency consultation requirements would not be required to reimburse fish and wildlife agencies for costs incurred during pre-filing consultation.[24]

After the withdrawal or rejection of a section 30(c) application, the Commission would provide the appropriate fish and wildlife agencies with a 45-day period in which to file a cost statement and supporting documentation of all reasonable costs incurred prior to the withdrawal or rejection of the application. Upon receipt of all cost statements and supporting documentation, the Commission would submit an itemized bill to the former section 30(c) applicant. The bill would set forth the amount specified in each fish and wildlife agency cost statement and the amount paid by the former section 30(c) applicant at the time of filing. The bill would also set forth either the amount due, if the amount paid by the applicant at the time of filing is less than the total of all of the cost statements, or the amount to be refunded to the former applicant, if the amount paid by the former applicant at the time of the filing is more than the total of all of the cost statements. If the amount paid by the former applicant at the time of filing is more than the total of all of the cost statements, the Commission would refund the excess amount to the former applicant within 45 days from the date of the bill. If the amount paid by the former applicant at the time of filing is less than the total of all of the cost statements, the former applicant would be required to submit a payment to the Commission of the amount due. Upon receipt of such payment, the Commission would distribute reimbursements to the appropriate fish and wildlife agencies.

2. Procedures for Disputing the Reasonableness of An Agency's Cost Statement

The Commission recognizes that a section 30(c) applicant and a fish and wildlife agency may disagree over which of the agency's costs are reasonable. Because ECPA requires the Commission to establish and collect fees for reasonable fish and wildlife agency costs, the Commission believes that it has the authority to establish procedures for resolving such disagreements.

The Commission is proposing to allow a section 30(c) applicant to dispute a cost statement that the applicant finds is unreasonable. The Commission would assess the reasonableness of any disputed cost statement on the basis of the application, the supporting documentation accompanying the cost statement, and any other documentation relating to the particular environmental problems associated with the disputing applicant's proposed project. The Commission would consider such factors as: (1) The time the agency spent reviewing the application; (2) the proportionality of the amount of the cost statement to the time the agency spent reviewing the application; (3) whether the agency's expenditures are in conformity with Federal expenditure guidelines for such items as travel, per diem, personnel, and contracting; and (4) whether the studies conducted by the agency, if any, are duplicative, limited to the proposed project area, unnecessary to determine the impacts to or mitigation measures for the particular fish and wildlife resources affected by the proposed project, or otherwise unnecessary to set terms and conditions for the proposed project.

[21] Section 4(c) of ECPA directs the Commission to review all provisions of the FPA requiring an action within a 30-day period and, as the Commission deems appropriate, amend its regulations to interpret such period as meaning "working days," rather than "calendar days" unless calendar days is specified for such action. The Commission believes that Congress, by adopting this provision, intended to give entities involved in hydroelectric proceedings more time to complete various statutory and regulatory requirements. In this rule, therefore, the Commission is allowing at least 45 days for any action which must be completed within a specific time period. Unless a longer period of time is specified, the Commission believes that 45 days is a sufficient period of time for applicants and agencies to complete such actions.

[22] There may be instances in which a fish and wildlife agency incurs conditioning-related costs after the prescribed time period for filing mandatory terms and conditions. The Commission would determine the appropriate reimbursements to be made in these instances on a case-by-case basis. *See* Scott Paper Company, 34 FERC § 61,216 (1986) (if a fish and wildlife agency informs the Commission, within the prescribed time period for filing mandatory terms and conditions, that it is unable to set mandatory terms and conditions because of a lack of information, the Commission will keep the application on file and give the applicant a chance to file any reasonably necessary information found lacking by the agency).

[23] See § 4.32(c).

[24] Section 30(e) of the FPA states that the fee provision therein is applicable to an "*applicant* for a license or exemption for a project that is required to meet the terms and conditions set by fish and wildlife agencies under [Section 30(c) of the FPA]." [emphasis added.]

If, upon receipt of a bill, a section 30(c) applicant believes that a particular agency's cost statement is unreasonable, it may dispute the bill within 45 days. If the Commission determines that the disputed cost statement is unreasonable, the Commission would provide a 45-day period in which the disputing applicant and the particular agency involved may attempt to reach an agreement regarding the reimbursable costs. If the disputing applicant and the agency do not reach an agreement within the 45-day period, the Commission would determine the reasonable costs incurred by the agency.

After a dispute proceeding is over, the Commission would provide the disputing applicant with any additional refund to which the applicant is entitled. In instances in which the total of all of the cost statements is more than the amount paid by the disputing applicant at the time of filing, the disputing applicant must, at the time it initiates a disputing proceeding, submit a payment to the Commission of any undisputed amounts.

3. Special Considerations for License Applicants Seeking PURPA Benefits for Projects at New Dams or Diversions

The Commission believes that fish and wildlife agencies will review a new dam or diversion license application differently depending on whether PURPA benefits will be sought. The Commission is therefore proposing to require a potential new dam or diversion license applicant to inform fish and wildlife agencies at the initial stage of consultation whether or not it intends to seek PURPA benefits. If a potential new dam or diversion license applicant informs the fish and wildlife agencies at the initial stage of consultation that it intends to seek PURPA benefits but then decides at any time prior to filing its application that it no longer intends to seek PURPA benefits, it must promptly notify the fish and wildlife agencies. Under the fee structure established by ECPA, any consultation costs incurred by fish and wildlife agencies in connection with a new dam or diversion license application that does not seek PURPA benefits would not be reimbursable. If a prospective new dam or diversion license applicant informs the fish and wildlife agencies in the initial stage of consultation that it does not intend to seek PURPA benefits but then decides at any time prior to filing its application that it will seek PURPA benefits, it must promptly notify the fish and wildlife agencies. In this instance, all reasonable costs incurred by fish and wildlife agencies both prior to the filing of the application and after the filing of the application would be reimbursable under the proposed procedures.

The Commission recognizes that fish and wildlife agencies may encounter special accounting problems in documenting prefiling consultation costs incurred in connection with a new dam or diversion license applicant seeking PURPA benefits that did not inform the agencies at the initial stage of consultation that it intended to seek PURPA benefits. The Commission would consider such special accounting problems in assessing the reasonableness of disputed cost statements on a case-by-case basis.

4. Applicability of Fees to Pending Applications

There is no legislative guidance on the application of section 7(c) of ECPA to pending applications filed before the date of enactment of ECPA. However, section 18 of ECPA states generally that, except as otherwise provided, the amendments made by ECPA shall effect with respect to each license, permit, or exemption issued after the enactment of ECPA. Some exemptions or new dam or diversion licenses obtaining PURPA benefits—for which the application was filed before the enactment of ECPA—may be issued after the enactment of ECPA. Additionally, some fish and wildlife agencies will have incurred conditioning-related costs after the enactment of ECPA in connection with pending section 30(c) applications filed before the enactment of ECPA. The Commission therefore believes that Congress intended fish and wildlife agencies to be reimbursed for reasonable costs incurred after the enactment of ECPA in connection with pending section 30(c) applications filed before the enactment of ECPA. Accordingly, the proposed fee requirements would apply to pending section 30(c) applications filed before the date of ECPA's enactment as well as to section 30(c) applications filed after the date of ECPA's enactment. However, fish and wildlife agencies would only be reimbursed for costs incurred after the date of ECPA's enactment.[25]

The proposed fee requirements would be applicable to all exemption applications. After the moratorium imposed by section 8(e) of ECPA is lifted,[26] the proposed fee requirements would also be applicable to: (1) New dam or diversion license applications seeking PURPA benefits filed on or after April 16, 1988; (2) new dam or diversion license applications seeking PURPA benefits filed on or after October 16, 1986, but before April 16, 1988, if the applicant cannot successfully demonstrate that it had committed substantial monetary resources relating to the filing of an acceptable application before October 16, 1986; [27] and (3) pending new dam or diversion license applications seeking PURPA benefits filed before October 16, 1986, if the application is not accepted for filing before October 16, 1989.[28]

The Commission recognizes that fish and wildlife agencies may encounter special accounting problems in documenting costs incurred for consultation, reviews, or studies already completed or underway. The Commission would consider such special accounting problems in assessing the reasonableness of disputed cost statements on a case-by-case basis.

C. Delegation of Authority

Section 375.314 of the Commission's regulations sets forth the authorities that the Commission has delegated to the Director of the Office of Hydropower Licensing (Director). The Commission is proposing to amend § 375.314 to authorize the Director to pass upon the reasonableness of disputed agency cost statements. A section 30(c) applicant may appeal a decision made by the Director under the Commission's general appeal procedures.[29]

D. Deduction of Collected Fees

The Commission is required by section 10(e) of the FPA to collect annual charges from licensees for, among other things, the United States' cost of administering Part I of the FPA. Under this provision, the Commission collects from licensees its costs of administering Part I of the FPA. Based upon the recommendations of the Inspector General of the Department of Energy,[30] the Commission, under

[25] The Commission recognizes that it would be difficult for fish and wildlife agencies to submit cost statements as proposed in this rule for pending section 30(c) applications filed before the effective date of the final rule. Therefore, within 45 days after the effective date of the final rule, the Commission will send fish and wildlife agencies a letter notifying them of pending section 30(c) applications filed before the effective date of the final rule. The letter will provide specific timetables for these agencies to submit cost statements.

[26] See section 8(e) of ECPA and n.11.

[27] *See* section 8(b)(4) of ECPA and the discussion in Part II of this preamble.

[28] *See* section 8(b)(3) of ECPA and the discussion in Part II of this preamble.

[29] See § 385.1902.

[30] Report on Assessment of Charges under the Hydropower Licensing Program, DOE Rept. No. 0219 (September 3, 1985).

section 10(e) of the FPA, also collects from licensees other federal agencies' costs of administering Part I of the FPA. USFWS and NMFS are among the federal agencies for which the Commission collects annual charges for the costs of administering Part I of the FPA.

Section 30(e) of the FPA requires the Commission to establish fees to be paid by three categories of applicants for costs incurred by USFWS, NMFS, and State FW in connection with their determination of the mandatory terms and conditions to be included in licenses and exemptions. If the Commission's assessment of the costs of administering Part I of the FPA includes the costs incurred by NMFS and USFWS in setting mandatory terms and conditions, there will be a double collection of such costs, since NMFS and USFWS are to be reimbursed for these costs as a result of the requirements of section 30(e) of the FPA.

The Commission is proposing to deduct all payments that section 30(c) applicants make to the Commission for costs incurred by USFWS and NMFS from the total annual charge assessed against licensees for the costs of administering Part I of the FPA. The deduction would enable the Commission to avoid double collections for costs incurred by USFWS and NMFS in setting mandatory terms and conditions.

IV. Initial Regulatory Flexibility Analysis

Whenever the Commission is required by section 533 of the Administrative Procedure Act (APA) (5 U.S.C. 553) to publish a general notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) to prepare and make available for public comment an initial regulatory flexibility analysis.

The analysis must describe the impact the proposed rule will have on small entities. The broad purpose of the RFA is to ensure more careful and informed agency consideration of rules that may significantly affect small entities and to encourage analyses of these rules as well as the agency's consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on small entities.

In this preamble, the Commission presents its reasons for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the proposed rule would establish that fees be paid to the Commission by applicants to reimburse Federal and state fish and wildlife agencies for the costs of reviews and studies completed on certain types of hydro projects. The proposed rule would not impose any reporting recordkeeping or compliance requirements. The proposed rule also does not duplicate, overlap or conflict with any other relevant Federal rule.

This rule would affect applicants for:

1. Projects exempt from licensing under Section 30 of the Federal Power Act (conduit exemptions);

2. Projects exempt from licensing under Section 408 of the Energy Security Act (5 MW exemptions); and

3. Projects at new dams and diversions seeking benefits under section 210 of PURPA.

In 1986, there were 17 applications filed for conduit exemptions, 39 applications filed for an exemption under the section 408 of the ESA, and 33 applications filed for PURPA benefits at new dams or diversions. Of these applications the Commission estimates that 90 percent were filed by small entities [31] under the definition in the RFA.

The Commission recognizes that the proposed fee requirement may have a significant impact on a substantial number of small entities. Where a proposal may have significant economic impact on a substantial number of small entities, section 603(c) of the RFA requires the Commission to discuss significant alternatives to the proposal. The Commission could, of course, consider reducing the fees, or even eliminating the fees with respect to small entities. However, in proposing the fees in this notice, the Commission is following a mandate that Congress established in the Electric Consumers Protection Act (ECPA) which provided that fish and wildlife agencies were to be reimbursed for the costs of reviews or studies incurred on certain types of hydro projects. There was no provision for eliminating or reducing these fees for small entities. Therefore the Commission believes that in this rulemaking, it has met the purposes of the RFA given the constraints set by ECPA. However, in the comment period, the Commission is interested in comments on how it may mitigate the impact of this rule on small entities.

V. Paperwork Reduction Act Statement

The information collection provisions in this notice of proposed rulemaking are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act [32] and OMB's regulations.[33] Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (Attention: Ellen Brown (202) 357–8272). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Public Comment Procedures

The Commission invites interested persons to submit written comments, data, views, and other information concerning the matters set out in this notice, including the methodology developed for establishing and the procedures for collecting these fees.

An original and 14 copies of such comments should be filed with the Commission by May 18, 1987. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM87–6–000. All written submissions will be placed in the Commission's public files and will be available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426, during regular business hours.

List of Subjects

18 CFR Part 4

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 11

Electric power, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Parts 4, 11, and 375, Title 18, *Code of Federal Regulations*, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—[AMENDED]

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

[31] The RFA defines a small entity as a small business, small organization or small governmental jurisdiction. A small business is defined under the Act as non-profit enterprises which are independently owned and operated and are not dominant in their field.

[32] 5 U.S.C. 601(6) (1982).

[33] 44 U.S.C. 3501–3520 (1982).

Authority: Electric Consumers Protection Act of 1986, Pub. L. No. 99-495; Federal Power Act, 16 U.S.C. 791a-825r, as amended; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645 (1982), as amended; Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978), unless otherwise noted.

2. A new Subpart M, consisting of §§ 4.300 through 4.305, is added to read as follows:

Subpart M—Fees under Section 30(e) of the Act

Sec.
4.300 Purpose, definitions, and applicability.
4.301 Notice to fish and wildlife agencies and estimate of fees prior to filing.
4.302 Fees at filing.
4.303 Post-filing procedures.
4.304 Payment.
4.305 Enforcement.

Subpart M—Fees under section 30(e) of the Act

§ 4.300 Purpose, definitions, and applicability.

(a) *Purpose.* This subpart implements the amendments of section 30 of the Federal Power Act enacted by section 7(c) of the Electric Consumers Protection Act of 1986 ("ECPA"). It establishes procedures for reimbursing fish and wildlife agencies for costs incurred in connection with applications for an exemption from licensing and applications for a license seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion.

(b) *Definitions.* For the purposes of this Subpart—

(1) "Cost" means an expenditure made by a fish and wildlife agency:

(i) On or after October 16, 1986; and

(ii) Directly related to setting mandatory terms and conditions for a proposed project pursuant to section 30(c) of the Federal Power Act.

(2) "Cost statement" means a statement of the total costs for which a fish and wildlife agency requests reimbursement.

(3) "Mandatory terms and conditions" means terms and conditions of license or exemption that a fish and wildlife agency determine are appropriate to prevent loss of, or damage to, fish and wildlife resources pursuant to section 30(c) of the Federal Power Act.

(4) "New dam or diversion license applicant" means an applicant for a license for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion, as defined in section 210(k) of the Public Utility Regulatory Policies Act of 1978, as amended.

(5) "Section 30(c) application" means an application for an exemption from licensing or a new dam or diversion license application seeking PURPA benefits.

(6) "Supporting documentation" means an itemized schedule of the costs that a fish and wildlife agency expends on a section 30(c) application, including but not limited to, costs of fieldwork and testing, contract costs, travel costs, and personnel costs.

(7) "PURPA benefits" means benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended.

(c) *Applicability.* Except as provided in paragraph (d) of this section, this Subpart applies to:

(1) Any application for exemption filed on or after October 16, 1986;

(2) Any pending application for exemption filed before October 16, 1986;

(3) Any new dam or diversion license application seeking PURPA benefits filed on or after April 16, 1988;

(4) Any new dam or diversion license application seeking PURPA benefits filed on or after October 16, 1986 but before April 16, 1988, if the applicant fails to demonstrate in a monetary resources petition filed with the Commission pursuant to § 292.208 of this Chapter that, before October 16, 1986, it had committed substantial monetary resources directly related to the development of the proposed project and to the diligent and timely completion of all requirements of the Commission for filing an acceptable application; and

(5) Any pending new dam or diversion license application seeking PURPA benefits filed before October 16, 1986, if the application is not accepted for filing before October 16, 1989.

(d) *Exceptions.* (1) This Subpart does not apply to any new dam or diversion license application seeking PURPA benefits if the moratorium described in section 8(e) of ECPA is in effect. The moratorium will end at the expiration of the first full session of Congress following the session during which the Commission reports to Congress on the results of the study required under section 8(d) of ECPA.

(2) This subpart does not apply to any new dam or diversion license application seeking PURPA benefits for a project located at a Government dam, as defined in section 3(10) of the Federal Power Act, at which non-Federal hydroelectric development is permissible.

§ 4.301 Notice to fish and wildlife agencies and estimate of fees prior to filing.

(a) *Notice to agencies.*—(1) *New dam or diversion license applicants.* During the initial stage of pre-filing agency consultation under § 4.38(b)(1) of this Part, a prospective new dam or diversion license applicant must inform each fish and wildlife agency consulted whether or not it will seek PURPA benefits.

(2) *Exemption applicants.* During the initial stage of pre-filing agency consultation under § 4.38(b)(1) of this Part, a prospective exemption applicant must notify each fish and wildlife agency consulted that it will seek an exemption from licensing.

(b) *Estimate of fees.* Within the comment period provided in § 4.38(b)(iv) of this Part, a fish and wildlife agency must provide a prospective section 30(c) applicant with a reasonable estimate of the total costs the agency anticipates it will incur to set mandatory terms and conditions for the proposed project.

§ 4.302 Fees at filing.

(a) *Fee Requirement.* A section 30(c) application must be accompanied by a fee.

(b) *Amount.* The fee required under paragraph (a) of this section must be in an amount equal to 50 percent of the total cost estimates provided by fish and wildlife agencies pursuant to § 4.301(b).

(c) *Failure to file.* The Commission will reject a section 30(c) application if the applicant fails to comply with the provisions of paragraphs (a) and (b) of this section.

§ 4.303 Post-filing procedures.

(a) *Submission of cost statements.*—(1) *Accepted applications.* Within 45 days after the last date for filing mandatory terms and conditions pursuant to § 4.32(c)(4) of this Part for a new dam or diversion license application seeking PURPA benefits, § 4.93(b) of this Part for an application for exemption of a small conduit hydroelectric facility, or § 4.105(b)(1) of this Part for an application for case-specific exemption of a small hydroelectric power project, a fish and wildlife agency must file with the Commission a cost statement and supporting documentation of the reasonable costs the agency incurred in setting mandatory terms and conditions for the proposed project.

(2) *Rejected or withdrawn applications.* The Director of the Office of Hydropower Licensing will, by letter, notify each fish and wildlife agency if a section 30(c) application is rejected or withdrawn. Within 45 days from the

date of notification, a fish and wildlife agency must file with the Commission a cost statement and supporting documentation of the reasonable costs the agency incurred prior to the date the application was rejected or withdrawn.

(b) *Billing.* After the Commission receives a cost statement and supporting documentation from all fish and wildlife agencies as required by paragraph (a) of this section, the Commission will bill the section 30(c) applicant. The bill will show:

(1) The cost statement submitted to the Commission by each fish and wildlife agency;

(2) The amount already paid by the applicant pursuant to § 4.302; and

(3) Either:

(i) The amount due, if the amount already paid by the applicant pursuant to § 4.302 is less than the total of all of the cost statements; or

(ii) The amount to be refunded to the applicant, if the amount already paid by the applicant pursuant to § 4.302 is more than the total of all of the cost statements.

(c) *Undisputed fees.* Within 45 days from the date of a bill issued under paragraph (b) of this section, a section 30(c) applicant must pay the Commission any amount due that it fails to dispute under the provisions of paragraph (d) of this section.

(d) *Dispute procedures.*—(1) *When to dispute.* A section 30(c) applicant must dispute the reasonableness of any fish and wildlife agency cost statement within 45 days from the date of a bill issued under paragraph (b) of this section.

(2) *Assessment of disputed cost statements.* The Director of the Office of Hydropower Licensing will assess the reasonableness of a disputed fish and wildlife agency cost statement. The Director will notify the disputing applicant and the fish and wildlife agency of the decision by letter. In deciding whether or not a disputed cost statement is reasonable, the Director will review the application, the supporting documentation accompanying the disputed cost statement, and any other documentation relating to the particular environmental problems associated with the disputing applicant's proposed project. The Director will consider such factors as:

(i) The time the fish and wildlife agency spent reviewing the application;

(ii) The proportionality of the cost statement to the time the fish and wildlife agency spent reviewing the application;

(iii) Whether the fish and wildlife agency's expenditures conform to Federal expenditure guidelines for such items as travel, per diem, personnel, and contracting; and

(iv) whether the studies conducted by the agency, if any, are duplicative, limited to the proposed project area, unnecessary to determine the impacts to or mitigation measures for the particular fish and wildlife resources affected by the proposed project, or otherwise unnecessary to set terms and conditions for the proposed project.

(3)(i) *Reasonable cost statements.* If the Director of the Office of Hydropower Licensing determines that a disputed fish and wildlife agency cost statement is reasonable, the disputing applicant must pay the Commission any amount due within 45 days from the date of notification.

(ii) *Unreasonable cost statements.* If the Director of the Office of Hydropower Licensing determines that a disputed fish and wildlife agency cost statement is unreasonable, the disputing applicant and the fish and wildlife agency will be afforded 45 days from the date of notification to attempt to reach an agreement regarding the reimbursable costs of the agency.

(A) If the disputing applicant and the fish and wildlife agency reach an agreement on the disputed cost statement within 45 days from the date of notification, the applicant must pay the Commission any amount due within that time period.

(B) If the disputing applicant and the fish and wildlife agency fail to reach an agreement on the disputed cost statement within 45 days from the date of notification, the Director of the Office of Hydropower Licensing will determine costs that the agency should reasonably have incurred. The disputing applicant must pay the Commission any amount due within 45 days from the date of notification of the reasonable costs of the agency determined by the Director.

(e) *Refunds.* (1) If the amount paid by a section 30(c) applicant under § 4.302 exceeds the total amount of the cost statements submitted by fish and wildlife agencies under paragraph (a) of this section, the Commission will refund the difference to the applicant within 45 days from the date of the bill issued to the applicant under paragraph (b) of this section.

(2) If the amount paid by a section 30(c) applicant under § 4.302 exceeds the sum of:

(i) The amount refunded to the applicant under paragraph (e)(1) of this section, and

(ii) The final amount assessed against the applicant upon the resolution of all dispute proceedings initiated by the applicant under paragraph (d) of this section, the Commission will refund the difference between the amount paid under § 4.302 and the sum of the amounts in paragraphs (e)(2)(i) and (e)(2)(ii) within 45 days of the resolution of all dispute proceedings.

§ 4.304 Payment.

(a) A payment required under this Subpart must be made by check made payable to the United States Treasury.

(b) If a payment required under this Subpart is not made within the time period prescribed for making such payment, interest and a penalty charge will be assessed. Interest and a penalty charge will be computed in accordance with 31 U.S.C. 3717 and 4 CFR Part 102.

§ 4.305 Enforcement.

The Commission may take any appropriate action permitted by law if a section 30(c) applicant does not make a payment required under this Subpart.

3. In § 4.30, paragraph (b)(9) is revised to read as follows:

§ 4.30 Applicability and definitions.

* * * * *

(b) * * *

(9) "Fish and wildlife agencies" means the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and any state agency with administrative management over fish and wildlife resources of the state of states in which a small conduit hydroelectric facility, a small hydroelectric power project, or a qualifying hydroelectric small power production facility, as defined in § 292.203(c) of this Chapter, is or will be located.

* * * * *

4. Section 4.32 is amended by adding paragraph (c)(4) to read as follows:

§ 4.32 Acceptance for filing or rejection.

* * * * *

(c) * * *

(4) For an application for a license seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would be located at a new dam or diversion, circulate the public notice issued for the application under paragraph (c)(2)(i) of this section to interested agencies at the time the applicant is notified that the application is accepted for filing. If a particular agency does not comment within 60 days from the date of issuance of the notice, that agency will be presumed to have no comment on or objection to the license requested. Any comments submitted by a fish and wildlife agency must include any specific terms or conditions that the agency has determined are necessary to prevent

loss of, or damage to, fish and wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E of the license application.

* * * * *

5. In § 4.38, paragraph (a) is amended to add the following sentence to the end:

§ 4.38 Pre-filing consultation requirements.

(a) * * * An applicant for an exemption from licensing or an applicant for a license seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would be located at a new dam or diversion must, in addition to meeting the requirements of this section, comply with the consultation requirements in § 4.301 of this Part.

* * * * *

PART 375—[AMENDED]

1. The authority citation for Part 375 continues to read as follows:

Authority: Electric Consumers Protection Act of 1986, Pub. L. 99-495; Department of Energy Organization Act, 42 U.S.C. 7101-7532, Exec. Order No. 12,009, 3 CFR 1977 Comp., p. 142; Administrative Procedure Act, 5 U.S.C. 553; Federal Power Act, 16 U.S.C. 791-828c, as amended; Natural Gas Act, 15 U.S.C. 717-717w, as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 *et seq.*, as amended.

2. Section 375.314 is amended by adding paragraph (ff) to read as follows:

§ 375.314 Delegations to the Director of the Office of Hydropower Licensing.

* * * * *

(ff) Pass upon the reasonableness of disputed agency cost statements pursuant to § 4.303(d) of this chapter.

* * * * *

PART 11—[AMENDED]

1. The authority citation for Part 11 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a-825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978), unless otherwise noted.

2. Section 11.1 is amended by adding paragraph (f) to read as follows:

§ 11.1 Cost of administration.

* * * * *

(f) All reimbursements that the Commission distributes to the United States Fish and Wildlife Service and the National Marine Fisheries Service pursuant to Subpart M of this Chapter will be deducted from the total annual charge assessed against licensees under this section.

[FR Doc. 87-5662 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-23-87]

Alaska Native Corporations; Notice of Proposed Rulemaking; Cross-Reference to Temporary Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations that add new § 1.1502-81T to provide rules relating to certain corporations included in a consolidated return with a Native Corporation established under the Alaska Native Claims Settlement Act. The text of the new section also serves as the comment document for this notice of proposed rulemaking.

DATES: The regulations are proposed to apply generally to taxable years beginning after December 31, 1984.

Written comments and requests for a public hearing must be delivered or mailed by May 18, 1987.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [LR-23-87], Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mark S. Jennings of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) or telephone 202-566-3458 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** add new temporary regulations § 1.1502-81T to Part 1 of Title 26 of the Code of Federal Regulations ("CFR"). The final regulations that are proposed to be based on the new temporary regulations would be added to Part 1 of Title 26 of the CFR. Those final regulations would make clear that the rules provided by section 60(b)(5) of the Tax Reform Act of 1984 and section 1804(e)(4) of the Tax Reform Act of 1986 result in no tax saving, tax benefit, or tax loss to any person, other than the use of the losses and credits of an Alaska Native Corporation and its wholly owned subsidiaries. For the text of the new temporary regulations, see T.D. 8130, published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the additions to the regulations.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking that solicits public comment, the Secretary of the Treasury has certified that this rule will not have a significant impact on a substantial number of small entities because the economic and any other secondary or incidental impact flows directly from the underlying statute. A regulatory flexibility analysis is therefore not required under the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive order12291 and that a Regulatory Impact Analysis is therefore not required.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Mark S. Jennings of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Commissioner of Internal Revenue.

Lawrence B. Gibbs,

[FR Doc. 87-5790 Filed 3-13-87; 12:46 pm]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 14

Recognition of Organizations, Representatives, Attorneys, and Agents

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration (VA) proposes to revise and clarify existing procedures and requirements regarding certification or "recognition" of service organizations and their representatives, and other individuals, agents, and attorneys representing claimants for benefits administered by the VA. The revisions are designed to improve the VA's ability to assure high quality representation of claimants.

DATE: Comments must be received on or before April 17, 1987.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding these proposed regulations to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Service Unit, Room 132, of the above address, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday (except holidays) until April 27, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew J. Mullen, (202) 233-2440.

SUPPLEMENTARY INFORMATION: Proposed changes in existing regulations include the establishment of new criteria for recognition as a national service organization, in addition to the current requirement that an organization be congressionally chartered. New information provisions would also be added. These provisions would include a requirement that an organization requesting recognition state in writing it will not represent to the public that VA recognition of the organization is for any purpose other than claim representation.

Provisions pertaining to the representation of claimants by attorneys would be expanded to permit claimants to consent to representation by other members of the same law firm or legal services office as their attorney of record. Also proposed are provisions which would permit paralegals, law clerks, and law students to participate in the representation process, with specified limitations. Miscellaneous changes would be made to provisions relating to individual representatives.

Provisions pertaining to space and office facilities would be supplemented by listing specific information to be provided when the organization submits a request for space or facilities. Also, definitions of the terms "accreditation" and "benefits" would be added to the regulations.

The Administrator hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the proposed rules affect only those organizations or individuals certified or recognized by the VA for the limited purpose of representing claimants for benefits administered by the VA.

These proposed regulatory amendments have also been reviewed under E.O. 12291 and have been determined to be non-major because they would revise only internal VA procedures and policies and would not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies, or geographic regions.

The information collection requirements contained in § 14.628(e) of these proposed regulatory amendments have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on the information collection requirements should be submitted to: Office of Information and Regulatory Affairs of OMB, Attention: Allison Herron, Desk Officer for the Veterans Administration, 726 Jackson Place, NW., Washington, DC 20503 (202) 395-7316.

There is no Catalog of Federal Domestic Assistance Number.

List of Subjects in 38 CFR Part 14

Administrative practice and procedure, Claims, Lawyers, Organization and functions of government agencies, Veterans.

Approved: February 17, 1987.

Thomas K. Turnage,
Administrator.

38 CFR Part 14, LEGAL SERVICES, GENERAL COUNSEL is proposed to be amended as follows:

PART 14—[AMENDED]

1. The undesignated center heading following § 14.619 which reads as follows: "RECOGNITION OF ORGANIZATIONS, ACCREDITED REPRESENTATIVES, ATTORNEYS, AGENTS; RULES OF PRACTICE AND INFORMATION CONCERNING FEES, 38 U.S.C. CHAPTER 59" and the note which follows it are removed

2. The undesignated center heading preceding § 14.626 is revised to read as follows:

Representation of Veterans Administration Claimants; Recognition of Organizations; Accreditation of Representatives, Attorneys, Agents; Rules of Practice and Information Concerning Fees, 38 U.S.C. 3401-3405

3. Section 14.627 is revised to read as follows:

§ 14.627 Definitions.

As used in regulations on representation of VA claimants:

"Accreditation" means recognition by the VA of representatives, attorneys, and agents to represent claimants.

"Agent" means a person who has met the standards and qualifications outlined in § 14.629(b).

"Attorney" means a member in good standing of a State bar.

"Benefit" means any payment, service, commodity, function, or status, entitlement to which is determined under laws administered by the VA pertaining to veterans, dependents, and survivors.

"Cancellation" means termination of authority to represent claimants.

"Claim" means application made under Title 38, United States Code, and implementing directives, for entitlement to VA benefits, reinstatement, continuation, or increase of benefits, or the defense of a proposed agency adverse action concerning benefits.

"Claimant" means a person who has filed a written application for determination of entitlement to benefits provided under Title 38, United States Code, and implementing directives.

"Recognition" means certification by the VA of organizations to represent claimants.

"Representative" means a person who has been recommended by a recognized organization and accredited by the VA.

"State" includes any State, possession, territory, Commonwealth, or the District of Columbia.

"Suspension" means temporary withholding of authority to represent claimants.

4. Section 14.628 is revised to read as follows:

§ 14.628 Recognition of organizations.

Authorized officers of an organization may request recognition by letter to the Administrator of Veterans Affairs.

(a) *National organization.* An organization may be recognized as a national organization if:

(1) It was recognized by the VA prior to October 10, 1978, and continues to satisfy the requirements of paragraph (d) of this section, or

(2) It is chartered by act of Congress and satisfies the following requirements:

(i) Requirements set forth in paragraph (d) of this section, including information required to be submitted under paragraph (e) of this section;

(ii) In the case of a membership organization, membership of 2,000 or more persons, as certified by the head of the organization;

(iii) Sizable number of claimants for which powers of attorney for claim representation are held;

(iv) Present capability to represent claimants before the Board of Veterans Appeals in Washington, DC; and

(v) Geographic diversification, i.e., sizable number of chapters or offices in more than one State.

(b) *State organization.* An organization created by a State government for the purpose of serving the needs of veterans of that State may be recognized. Only one such organization may be recognized in each State.

(c) *Other organization.* An organization other than a State or national organization as set forth in paragraphs (a) and (b) of this section may be recognized when the VA has determined that it is a veterans' service organization primarily involved in delivering services connected with either Title 38, United States Code, benefits and programs or other Federal and State programs designed to assist veterans. The term "veteran" as used in this paragraph shall include veterans, former armed forces personnel, and the dependents or survivors of either. Further, the organization shall provide responsible, qualified representation in the preparation, presentation, and prosecution of claims for Title 38, United States Code, benefits.

(c) *Requirements for recognition.* In order to be recognized under paragraphs (a) or (c) of this section the organization shall:

(1) Have as a primary purpose services to veterans; and

(2) Demonstrate a substantial service commitment to veterans either by showing a sizable organizational membership or by showing performance of those veterans' services to a sizable number of veterans; and

(3) Commit a significant portion of its assets to veterans' services; and

(4) Establish either that complete claims service will be provided to each veteran requesting representation, or shall give written notice of any limitation in its claims service with advice concerning alternate service. Complete claims service includes the ability to assure representation before the Board of Veterans Appeals. However, representation before the Board of Veterans Appeals may be provided by agreement with another organization recognized by the VA; and

(5) Take affirmative action, including training and monitoring of its accredited representatives, to ensure proper handling of claims.

(e) *Information to be submitted by organizations requesting recognition.* In order for an organization to be recognized under paragraphs (a) or (c) of this section, the following information shall be supplied:

(1) *Purpose.* A statement outlining the purpose of the organization, the extent of services provided, and the manner in which veterans would benefit by recognition.

(2) *Service commitment.* (i) The number of members and number of posts, chapters, or offices and their addresses; and

(ii) A copy of the articles of incorporation, constitution, charter, and bylaws of the organization, as appropriate; and

(iii) The type of Title 38, United States Code, services performed or to be performed, with an approximation of the number of veteran and dependent clients served by the organization in each type of service designated; and/or

(iv) The type of services, if any, performed in connection with other Federal and State programs which are designed to assist former armed forces personnel and their dependents, and an approximation of the number of veteran and dependent clients served by the organization under each program designated.

(3) *Assets.* (i) A copy of the last financial statement of the organization indicating the amount of funds allocated for conducting veteran's services; and

(ii) A statement indicating that use of the organization's funding is not subject to limitations imposed under any Federal grant or law which would prevent it from representing claimants before the VA.

(4) *Training.* (i) A statement of the skills, training, and other qualifications for handling veterans' claims of paid or volunteer staff personnel; and

(ii) A plan for recruiting and training qualified claim representatives, including the number of hours of formal classroom instruction, the subjects to be taught, the period of on-the-job training, a schedule or timetable for such training, the projected number of trainees for the first year, and the name(s) and qualifications of the individual(s) primarily responsible for the training.

(5) *Complete claims service.* (i) The record of representation before a discharge review board, or other proof of ability to represent claimants before the VA; and

(ii) Proof of capability to provide representation before the Board of Veterans Appeals; or

(iii) Proof of association or agreement for the purpose of representation before the Board of Veterans Appeals with a recognized service organization, or the proposed method of informing claimants of the limitations in service that can be provided, with advice concerning alternate service.

(6) *Supervision.* The organization shall execute an agreement which states that it shall take affirmative action, including training and monitoring of its accredited representatives, to ensure proper handling of claims.

(7) *Other.* (i) A statement that neither the organization nor its representatives will charge or accept a fee or gratuity for service to a claimant and that the organization will not represent to the public that VA recognition of the organization is for any purpose other than claimant representation;

(ii) The names, titles, and addresses of officers and the officials authorized to certify representatives; and

(iii) The names, titles, and addresses of full-time paid employees who are qualified to act as accredited representatives.

(f) *Recognition or denial.* A notice of the Administrator's determination on a request for recognition will be sent to an organization within 90 days of receipt of all information to be supplied. The notice will state that recognition is solely for the purpose of claimant representation before the VA. If recognition is denied an organization, the VA will set forth an explanation of the reasons for denial. A denial of recognition may be appealed to the Administrator within 90 days of the denial. The VA will consider the appeal within 30 days of receiving such request. The organization will have an opportunity to fully document its position, and the appeal will cover all aspects of the application for recognition and the denial.

(g) *Requests for further information.* The Administrator or the

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Administrator's designee may request further information from any recognized organization, including progress reports, updates, or verifications.

(38 U.S.C. 3402)

5. Section 14.629 is revised to read as follows:

§ 14.629 Requirements for accreditation of representatives, agents, and attorneys.

The District Counsel will resolve any question of current qualifications of a representative, agent, or attorney. The claimant; the representative, agent, or attorney, or an official of the organization for which such person acts; or the appropriate VA official may appeal such determination to the General Counsel.

(a) *Representatives.* A recognized organization shall file with the Office of the General Counsel VA Form 2–21 (Application for Accreditation as Service Organization Representative) for each person it desires accredited as a representative of that organization. In recommending a person, the organization shall certify that the designee:

(1) Is of good character and reputation; and

(i) Has successfully completed a VA approved course of instruction on veterans' benefits; or

(ii) Has passed an examination approved by the VA; or

(iii) Has otherwise demonstrated an ability to represent claimants before the VA;

(2) Is either a member in good standing or a full-time paid employee of such organization, or is accredited and functioning as a representative of another recognized organization; and

(3) Is not employed in any civil or military department or agency of the United States.

(b) *Agents.* Individuals desiring accreditation as agents must file an application with the Office of the General Counsel and establish that they are of good character and reputation. In addition, applicants shall pass a written examination concerning laws administered by the VA which shall be prepared and graded in the Office of the General Counsel. The examination may be taken at any convenient District Counsel office under the supervision of the District Counsel. No applicant shall be allowed to sit for the examination more than twice in any 6-month period.

(c) *Attorneys.* (1) An attorney engaged by claimant shall state in writing on his or her letterhead that the attorney is authorized to represent the claimant in order to have access to information in the claimant's file pertinent to the particular claim presented. For an attorney to have complete access to all information in an individual's records, the attorney must provide a signed consent from the claimant or the claimant's guardian. The consent shall be equivalent to an executed power of attorney.

(2) If the claimant so consents, an attorney associated or affiliated with the claimant's attorney of record or employed by the same legal services office as the attorney of record may assist in representation and may have access to the claimant's records in the manner as the attorney of record.

(3) Legal interns, law students, and paralegals may not be independently accredited to represent claimants under this paragraph. (See § 14.630)

(4) Unless revoked by the claimant, consent provided under § 14.629(c)(2) of this section or § 14.631(c)(iii) shall remain effective in the event the claimant's original attorney is replaced as attorney of record by another member of the same law firm or an attorney employed by the same legal services office.

(38 U.S.C. 210(c), 3401, 3404)

6. Section 14.630 is revised to read as follows:

§ 14.630 Authorization for a particular claim.

Any person may be authorized to prepare, present, and prosecute a particular claim. A proper power of attorney, and a statement signed by the person and the claimant that no compensation will be charged or paid for the services, shall be filed with the office where the claim is presented. A signed writing, which may be in letter form, identifying the claimant and the type of benefit or relief sought, specifically authorizing a named individual to act as the claimant's representative, and further authorizing direct access to records pertinent to the claim, will be accepted as a power of attorney. A person accredited under this section shall represent only one claimant; however, in unusual circumstances, appeal of such limitation may be made to the General Counsel. (38 U.S.C. 3403).

7. In § 14.631, the introductory portion of paragraph (a) and paragraphs (c) and (d) are revised to read as follows:

§ 14.631 Powers of attorneys.

(a) A power of attorney, executed on either VA Form 23–22 (Appointment of Veterans Service Organization as Claimant's Representative) or VA Form 2–22a (Appointment of Attorney or Agent as Claimant's Representative), is required to represent a claimant, except when representation is by attorney who complies with § 14.629(c) or when representation by an individual is authorized under § 14.630. The power of attorney shall meet the following requirements.

* * * * *

(c)(1) Only one organization, agent, or attorney will be recognized at one time in the prosecution of a claim for one specific benefit. Except as provided in § 14.629(c) and paragraphs (c)(2) and (c)(3) of this section, all transactions concerning the claim will be conducted exclusively with the recognized organization, agent, or attorney of record until notice of a change, if any, is received by the VA.

(2) An organization named in a power of attorney executed in accordance with paragraph (a) of this section may employ attorney to represent a claimant in a particular claim. Unless the attorney is an accredited representative of the organization, the written consent of the claimant shall be required.

(3) Legal interns, law students, and paralegals may assist in the preparation, presentation, or prosecution of a claim under the direct supervision of a claimant's attorney of record, or an attorney who is employed by or an accredited representative of an organization named in a power of attorney executed in accordance with paragraph (a) of this section. However, prior to their participation, the claimant's written consent must be furnished to the VA. Such consent must specifically state that a legal intern, law student, or paralegal furnishing written authorization from the attorney of record or the organization named in the power of attorney may have access to the claimant's records and that such person's participation in all aspects of presentation of the claim is authorized. The supervising attorney, or an attorney authorized under § 14.629(c)(2), must be present at any hearing in which a legal intern, law student, or paralegal participates.

(d) A power of attorney may be revoked at any time, and an attorney may be discharged at any time. Unless a claimant specifically indicates otherwise, the receipt of a new power of attorney shall constitute a revocation of an existing power of attorney. If an attorney submits a letter of representation under § 14.629 regarding one specific benefit, such letter shall constitute a revocation of an existing power of attorney as it pertains to that benefit, but shall not automatically

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constitute revocation of existing powers of attorney pertaining to other benefits.

* * * * *

(38 U.S.C. 210(c), 3402, 3404)

8. Section 14.632 is revised to read as follows:

§ 14.632 Letters of accreditation.

If challenged, the qualifications of prospective representatives or agents shall be verified by the District Counsel of jurisdiction. The report of the District Counsel, if any, including any recommendation of the VA station director, and the application shall be transmitted to the General Counsel for final action. If the designee is disapproved by the General Counsel, the reasons will be stated and an opportunity will be given to submit additional information. If the designee is approved, letters of accreditation, or an identification card, will be issued by the General Counsel or the General Counsel's designee and will constitute authority to prepare, present, and prosecute claims in all VA installations. Letters of accreditation to former employees of the Federal Government will advise such individuals of the restrictions and penalties concerning post-employment conflict of interest provided in Title 18, United States Code. Record of accreditation will be maintained in the Office of the General Counsel. (38 U.S.C. 3402, 3404).

9. Section 14.633 is revised to read as follows:

§ 14.633 Termination of accreditation of agents, attorneys, and representatives.

(a) Accreditation may be canceled at the request of an agent, attorney, representative, or organization.

(b) Accreditation shall be canceled at such time a determination is made that any requirement of § 14.629 is no longer met by an agent, attorney, or representative.

(c) Accreditation shall canceled when the General Counsel finds, by clear and convincing evidence, one of the following:

(1) Violation of or refusal to comply with the laws administered by the VA or with the regulations governing practice before the VA;

(2) Knowingly presenting or prosecuting a fraudulent claim against the United States, or knowingly providing false information to the United States;

(3) Demanding or accepting unlawful compensation for preparing, presenting, prosecuting, or advising or consulting, concerning a claim;

(4) Any other unlawful, unprofessional, or unethical practice. (Unlawful, unprofessional, or unethical practice shall include but not be limited to the following—deceiving, misleading or threatening a claimant or prospective claimant; neglecting to prosecute a claim for 6 months or more; failing to furnish a reasonable response within 90 days of request for evidence by the VA, or willfully withholding an application for benefits.)

(d) Accreditation shall be canceled when the General Counsel finds an agent's, attorney's, or representative's performance before the VA demonstrates a lack of the degree of competence necessary to adequately prepare, present, and prosecute claims for veterans' benefits.

(e) As to cancellation of accreditation under § 14.633 (b), (c) or (d) of this section, upon receipt of information from any source indicating failure to meet the requirements of § 14.629, improper conduct, or incompetence, the District Counsel of jurisdiction shall initiate an inquiry into the matter. If the matter involves an accredited representative of a recognized organization this inquiry shall include contact with the representative's organization.

(1) If the result of the inquiry does not justify further action, the District Counsel will close the inquiry and maintain the record for 3 years.

(2) If the result of the inquiry justifies further action, the District Counsel shall take the following action:

(i) As to representatives, suspend accreditation immediately and notify the representative and the representative's organization of the suspension and of an intent to cancel accreditation. The notice to the representative will also state the reasons for the suspension and impending cancellation, and inform the representative of a right to request a hearing on the matter or to submit additional evidence within 10 working days following receipt of such notice. Such time may be extended for a reasonable period upon a showing of sufficient cause.

(ii) As to agents or attorneys, inform the General Counsel of the result of the inquiry and notify the agent or attorney of an intent to cancel accreditation. The notice will also state the reason(s) for the impending cancellation and inform the party of a right to request a hearing on the matter or to submit additional evidence within 10 working days of receipt of such notice. Such time may be extended for a reasonable period upon a showing of sufficient cause.

(iii) In the event that a hearing is not requested, the District Counsel shall forward the record to the General Counsel for final determination.

(f) If a hearing is requested, a hearing officer will be appointed by the Director of the regional office involved. The hearing officer shall not be from the Office of the District Counsel. The hearing officer will have authority to administer oaths. A member of the District Counsel's office will present the evidence. The party requesting the hearing will have a right to counsel, to present evidence, and to cross-examine witnesses. Upon request of the party requesting the hearing, an appropriate VA official designated in § 2.1 of this title may issue subpoenas to compel the attendance of witnesses and the production of documents necessary for a fair hearing. The hearing shall be conducted in an informal manner and court rules of evidence shall not apply. Testimony shall be recorded verbatim. The hearing officer shall submit the entire hearing transcript, any pertinent records or information, and a recommended finding to the District Counsel within 10 working days after the close of the hearing. The District Counsel will immediately forward the entire record to the General Counsel for decision.

(g) The decision of the General Counsel is final. The effective date for termination of accreditation shall be the date upon which a final decision is rendered. The records of the case will be maintained in the General Counsel's office for 3 years. (38 U.S.C. 210(c), 3402, 3404).

10. Section 14.634 is revised to read as follows:

§ 14.634 Fees and expenses.

Accredited representatives of National, State, or other recognized organizations, and individuals authorized for a particular claim, shall not be entitled to receive fees. Attorneys and agents accredited under § 14.629(b) or (c) are entitled to receive fees as provided by statute. (38 U.S.C. 3404(c)).

(a) *Amount of fees.* For the successful prosecution of claims, attorneys and agents accredited under § 14.629(b) or (c) may receive the fee permitted by statute. The fee will be paid to the attorney or agent of record at the time of allowance, by deduction from the benefit allowed, after approval by the VA. Questions concerning the amount or proper payee of fees allowed will be resolved by the District Counsel, or the District Counsel's designee, who will consider the quality, nature, and extent of the services. (38 U.S.C. 3404)

(b) *Expenses.* Notwithstanding paragraph (a) of this section, an agent, attorney, or person authorized under § 14.630, who incurs an expense in the

prosecution of a claim, may be reimbursed for that expense by the claimant. However, prior to demanding or accepting such reimbursement, the agent, attorney, or person must submit a sworn itemized statement of the expense to the VA, and reimbursement of the expense must be approved by the District Counsel, or the District Counsel's designee. The statement of expense and a copy of the District Counsel's determination will be retained in the claims folder as part of the permanent record. Notice of the action taken shall be transmitted to the requestor by the service handling the claim. (38 U.S.C. 3404).

11. Section 14.635 is revised to read as follows:

§ 14.635 Reconsideration of denial of fees and expenses.

A request for reconsideration of a denied fee, or statement of expenses, must be received by the General Counsel within 1 year of the date of denial. If agreement cannot be reached and a hearing is requested, a hearing officer will be appointed by the Director of the regional office involved. The hearing officer shall not be from the Office of the District Counsel. The hearing officer will have authority to administer oaths. A member of the District Counsel's office will present the evidence. The complainant will have a right to counsel, to present evidence, and to cross-examine witnesses. Upon request of the complainant, an appropriate VA official designated in § 2.1 of this title may issue subpoenas to compel the attendance of witnesses and the production of documents necessary for a fair hearing. The hearing shall be conducted in an informal manner and court rules of evidence shall not apply. Testimony shall be recorded verbatim. Within 10 working days after the close of the hearing, the hearing officer shall submit the entire hearing transcript, any pertinent records or information, and a recommended finding to the District Counsel, who will immediately forward the entire record to the General Counsel for decision. The decision of the General Counsel is final. (38 U.S.C. 210(c), 3404)

12. Section 14.637 is revised to read as follows:

§ 14.637 Office space and facilities.

The Administrator may furnish office space and facilities, if available, for the use of paid full-time representatives of recognized national organizations for purposes of assisting veterans in the preparation, presentation, and prosecution of claims for veterans' benefits and no other purpose.

(a) Request for office space should be made by an appropriate official of the organization to the Director of the VA facility in which space is desired and should set forth:

(1) The number of full-time paid representatives who will be permanently assigned to the office;

(2) The number of secretarial or other support staff who will be assigned to the office; and

(3) The number of claimants for whom the organization holds powers of attorney whose claims are within the jurisdiction of the facility or who reside in the area served by the facility, the number of such claimants whose claims are pending, and the number of claims prosecuted during the previous three years.

(b) When in the judgment of the Director office space and facilities previously granted could be better used by the VA, or would receive more effective use or serve more claimants if allocated to another recognized National organization, the Director may withdraw such space or reassign such space to another organization. (38 U.S.C. 3402).

[FR Doc. 87-5775 Filed 3-17-87; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3170-1]

Standards of Performance for New Stationary Sources—Amendment of Method 5F

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: This proposal would amend Method 5F to add an alternative analysis procedure. The alternative test procedure would require a much lower capital outlay than the current analytical procedure. This would increase the number of laboratories that would have the capability of performing Method 5F analyses.

DATE: *Comments.* Comments must be received on or before June 1, 1987.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by *April 8, 1987*, a public hearing will be held on *May 4, 1987* beginning at 10:00 a.m. Persons interested in attending the hearing should call the contact mentioned under ADDRESSES to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by *April 8, 1987*.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-86-17. U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mr. Gary McAlister, Emission Standards and Engineering Division (ESED), Emission Measurement Branch (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

Docket. Docket No. A-86-17, containing supporting information used in developing the proposed rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gary McAlister or Mr. Roger T. Shigehara, Emission Measurement Branch (MD-19), Emisison Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

After the proposal of Method 5F on May 29, 1985 (50 FR 21863), we received a comment requesting that the barium-thorin titration procedure be included in the method as an alternative analytical method. The primary reason for the request was the substantially lower capital cost of the equipment used in the titration procedure as opposed to the cost of the ion chromatograph currently specified in Method 5F. We have completed the necessary development work to allow the use of the titration procedure as an alternative to the ion chromatograph, and are now proposing to amend Method 5F to include this alternative analysis procedure.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations nor does it change any

emission standard. Rather, the rulemaking would simply amend test procedures associated with emission measurement requirements that would apply irrespective of this rulemaking.

III. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed test method in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see ADDRESSES section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials) [section 307(d)(7)(A)].

C. Office of Management and Budget Review

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have any economic impact on small entities because no additional costs will be incurred.

List of Subjects in 40 CFR Part 60

Air Pollution control, Intergovernmental relations, Reporting and Recordkeeping requirements, Petroleum refineries.

Dated: March 5, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

It is proposed that 40 CFR Part 60, Method 5F of Appendix A, be amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. Method 5F of Appendix A is amended by redesignating the current Section 7 as Section 8 and by adding a new Section 7 as follows:

Appendix A—Reference Methods

* * * * *

Method 5F—Determination of Nonsulfate Particulate Matter from Stationary Sources

* * * * *

7. Alternative Procedures

7.1 The following procedures may be used as an alternative to the procedure in Section 4.3.

7.1.1 Apparatus. Same as for Method 6, Sections 2.3.3 to 2.3.6 with the following additions.

7.1.1.1 Beakers. 250-ml, one for each sample, and 600-ml.

7.1.1.2 Oven. Capable of maintaining temperatures of 75 ± 5°C and 105 ± 5°C.

7.1.1.3 Buchner Funnel.

7.1.1.4 Glass Columns. 25-mm x 305-mm (1-in. x 12-in.) with Teflon stopcock.

7.1.1.5 Volumetric Flasks. 50-ml and 500-ml, one set for each sample, and 100-ml, 200-ml, and 1000-ml.

7.1.1.6 Pipettes. Two 20-ml and one 200-ml, one set for each sample, and 5-ml.

7.1.1.7 Filter Flasks. 500-ml.

7.1.1.8 Polyethylene Bottle. 500-ml, one for each sample.

7.1.2 Reagents. Same as Method 6, Sections 3.3.2 to 3.3.5 with the following additions:

7.1.2.1 Water, Ammonium Hydroxide, and Phenolphthalein. Same as Sections 3.2.1, 3.2.5, and 3.2.6 of this method, respectively.

7.1.2.2 Filter. Glass fiber to fit Buchner funnel.

7.1.2.4 Hydrochloric Acid (HCl), 1 M. Add 8.3 ml of concentrated HCl (12 M) to 50 ml of water in a 100-ml volumetric flask. Dilute to 100 ml with water.

7.1.2.5 Glass Wool.

7.1.2.6 Ion Exchange Resin. Strong cation exchange resin, hydrogen form, analytical grade.

7.1.2.7 pH Paper. Range of 1 to 7.

7.1.3 Analysis.

7.1.3.1 Ion Exchange Column Preparation. Slurry the resin with 1 M HCl in a 250-ml beaker, and allow to stand overnight. Place 2.5 cm (1 in.) of glass wool in the bottom of the glass column. Rinse the slurried resin twice with water. Resuspend the resin in water, and pour sufficient resin into the column to make a bed 5.1 cm (2 in.) deep. Do not allow air bubbles to become entrapped in the resin or glass wool to avoid channeling, which may produce erratic results. If necessary, stir the resin with a glass rod to remove air bubbles. After the column has been prepared, never let the liquid level fall below the top of the upper glass wool plug. Place a 2.5-cm (1-in.) plug of glass wool on top of the resin. Rinse the column with water until the eluate gives a pH of 5 or greater as measured with pH paper.

7.1.3.2 Sample Extraction. Follow the procedure given in Section 4.3.1 except do not dilute the sample to 500 ml.

7.1.3.3 Sample Residue. Place at least one clean glass fiber filter for each sample in a Buchner funnel, and rinse the filters with water. Remove the filters from the funnel, and dry them in an oven at 105 ± 5°C; then cool in a desiccator. Weigh each filter to constant weight according to the procedure in Method 5, Section 4.3. Record the weight of each filter to the nearest 0.1 mg.

Assemble the vacuum filter apparatus, and place one of the clean, tared glass fiber filters in the Buchner funnel. Decant the liquid portion of the extracted sample (Section 7.1.3.2) through the tared glass fiber filter into a clean, dry, 500-ml filter flask. Rinse all the particulate matter remaining in the volumetric flask onto the glass fiber filter with water. Rinse the particulate matter with additional water. Transfer the filtrate to a 500-ml volumetric flask, and dilute to 500 ml with water. Dry the filter overnight at 105 ± 5°C, cool in a desiccator, and weigh to the nearest 0.1 mg.

Dry a 250-ml beaker at 75 ± 5°C, and cool in a desiccator; then weigh to constant weight to the nearest 0.1 mg. Pipette 200 ml of the filtrate that was saved into a tared 250-ml beaker; add five drops of phenolphthalein indicator and sufficient concentrated ammonium hydroxide to turn the solution pink. Carefully evaporate the contents of the beaker to dryness at 75 ± 5°C. Check for dryness every 30 minutes. Do not continue to bake the sample once it has dried. Cool the sample in a desiccator, and weigh to constant weight to the nearest 0.1 mg.

7.1.3.4 Sulfate Analysis. Adjust the flow rate through the ion exchange column to 3 ml/min. Pipette a 20-ml aliquot of the filtrate onto the top of the ion exchange column, and collect the eluate in a 50-ml volumetric flask. Rinse the column with two 15-ml portions of water. Stop collection of the eluate when the volume in the flask reaches 50 ml. Pipette a 20-ml aliquot of the eluate into a 250-ml Erlenmeyer flask, add 80 ml of 100 percent isopropanol and two to four drops of thorin indicator, and titrate to a pink end point

using 0.0100 N barium perchlorate. Repeat and average the titration volumes. Run a blank with each series of samples. Replicate titrations must agree within 1 percent or 0.2 ml, whichever is larger. Perform the ion exchange and titration procedures on duplicate portions of the filtrate. Results should agree within 5 percent. Regenerate or replace the ion exchange resin after 20 sample aliquots have been analyzed or if the end point of the titration becomes unclear.

Note: Protect the 0.0100 N barium perchlorate solution from evaporation at all times.

7.1.3.4 Blank Determination. Begin with a 500-ml sample of water and carry it through the analysis steps described in Sections 7.1.3.3 and 7.1.3.4. A blank value larger than 5 mg should not be subtracted from the final particulate matter mass. Causes for large blank values should be investigated and any problems resolved before proceeding with further analyses.

7.1.4 Calibration. Calibrate the barium perchlorate solution as in Method 6, Section 5.5.

7.1.5 Calculations.

7.1.5.1 Nomenclature. Same as Section 6.1 with the following additons.

m_a = Mass of clean analytical filter, mg.
m_d = Mass of dissovled particulate matter, mg.
m_e = Mass of beaker and dissovled particulate matter after evaporation of filtrate, mg.
m_p = Mass of insoluble particulate matter, mg.
m_r = Mass of analytical filter, sample filter, and insoluble particulate matter, mg.
m_{bk} = Mass of nonsulfate particulate matter in blank sample, mg.
n = Normality of $Ba(C10_4)_2$ titrant, meq/ml.
v_a = Volume of aliquot taken for titration, 20 ml.
v_c = Volume of titrant used for titration blank, ml.
v_d = Volume of filtrate evaporated, 200 ml.
v_e = Volume of eluate collected, 50 ml.
v_f = Volume of extracted sample, 500 ml.
v_i = Volume of filtrate added to ion exchange column, 20 ml.
v_t = Volume of $Ba(C10_4)_2$ titrant, ml.
W = Equivalent weight of ammonium sulfate, 66.07 mg/meq.

7.1.5.2 Mass of Insoluble Particulate Matter.

$$m_p = m_r - m_a - m_f \qquad \text{Eq. 5F–4}$$

7.1.5.3 Mass of Dissolved Particulate Matter.

$$m_d = (m_e - m_b)\frac{V_f}{V_d} \qquad \text{Eq. 5F–5}$$

7.1.5.4 Mass of Ammonium Sulfate.

$$m_s = \frac{(V_t - V_c)\, N\, W\, V_e\, V_f}{V_a\, V_i} \qquad \text{Eq. 5F–6}$$

7.1.5.5 Mass of Nonsulfate Particulate matter.

$$m_n = m_p + m_d - m_s - m_{bk} \qquad \text{Eq. 5F–7}$$

* * * * *

[FR Doc. 87–5805 Filed 3–17–87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 6F3434/P411; FRL-3169-8]

Exemption From the Requirement of a Tolerance for the Insect Pheromone Containing the Active Ingredients 3,7,11-Trimethyl-1-6,10-Dodecatriene-1-OL and 3,7,11-Trimethyl-2,6,10-Dodecatriene-3-OL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes an exemption from the requirement of a tolerance for residues of the insect pheromone containing the active ingredients 3,7,11-trimethyl-1,6,10-dodecatriene-1-ol and 3,7,11-triemethyl-2,6,10-dodecatriene-3-o1, (hereafter referred to in the preamble as "Stirrup-M"), in or on all raw agricultural commodities. This proposal eliminates the need to establish a maximum permissible level for residues of this pesticide. This proposed regulation was requested by Fermore Chemicals, Inc. of Glendale, Arizona.

DATE: Comments, identified by the document control number [PP 6F3434/P411] should be received on or before April 2, 1987.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidental by marking any part or all of that information as "Confidential Business Information" [CBI]. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Arturo E. Castillo, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of October 29, 1986 (51 FR 39576), which announced that the EPA received pesticide petition 6F3434 from Fermone Chemicals, Inc., P.O. Box 2316, Glendale, AZ 85311, proposing that 40 CFR Part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insect pheromone, Stirrup-M, containing the active ingredient 3,7,11-trimethy1-2-6, 10 dodecatriene 1-ol in or on the raw agricultural commodity corn.

There were no comments received in response to the notice of filing.

Following the publication of the notice of filing, Fermone Chemicals amended the petition by adding the active ingredient 3,7,11-triemthyl-1,6,10-dodecatriene-1-ol and proposed that the exemptions be for use or on all raw agricultural commodities. Therefore, the Agency is reproposing the exemption from the requirement of a tolerance for Stirrup-M in 40 CFR Part 180.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period is shortened to 15 days in order that the regulation may become effective in 15 days from the date of publication of this proposed rule in the Federal Register.

This exemption is for a pheromone which acts to control tetranychid mite species by attraction.

The pheromone is a synthetic replica of the naturally occurring pheromone. This pheromone product is designed to be used as an additive to other registered miticides and acts as an attractant.

The pheromone permeates the surrounding area giving off an olfactory stimulant which attracts mites to the crop surfaces that have been treated, both with the pheromone and a

conventional miticide (in a tank-mix) thus diminishing the quantity and frequency of application of the conventional miticide by enhancing the efficacy of the miticide product used.

Stirrup-M is selective for crop mites. It is species specific for tetranychid mites. It appears to have no influence on other insects, which means that beneficial insects, such as those that prey on mites, are not affected.

The recommended application rate for all crops, is 2 to 6 ounces per acre (145 to 435 milliliters [mL] per hectare). The maximum rate of application of Stirrup-M, according to the label, is 6 ounces of formulated product per acre. This equates to approximately 0.007 pound per acre. The number of applications per season may vary, because this product is intended to be used as an additive to conventional miticides (tank-mixed with EPA registered miticide pesticide), and thus, depends on the application frequencies of the conventional pesticides used. However, because the efficacy of the miticides is improved through the use of the attractant, a reasonable estimate of the number of applications per season can be made based on the generation time of mites, which is about 3 weeks. Assuming that this product will be applied once a generation over a 4-month growing season, one would expect approximately six applications per growing season.

The data submitted in the petition and other relevant material have been evaluated. The toxicology studies, performed with the active ingredient, considered in support of the exemption from the requirements of a tolerance include: An acute oral LD_{50}, rat, with no-observed effect levels at greater than 5,050 mg/kg; acute dermal LD_{50}, rat, with no effects at greater than 2,020 mg/kg; primary dermal irritation, rabbit, using Stirrup-M 0.923 percent in ocular wash. The test results on the material; (1) showed only a mild irritation in wash and unwashed rabbit eyes after 1 hour of testing, which cleared within 24 hours, (2) an acute inhalation LD_{50} greater than 3.37 mg/L showed no effects after 2- and 4-hour test intervals, (3) the Ames mutagenicity assay showed no mutagenic potential, (4) the DNA repair using PolA+ and PolA− *E coli* showed no mutagenic potential (acceptable), and (5) the sister chromatid exchange study in Chinese hamster ovary cells showed no mutagenic potential (acceptable test).

Stirrup-M also has limited exposure potential because the maximum recommended application rate for Stirrup-M is very low—3.04 grams of active ingredient (a.i.) per acre.

The exemption from the requirement of a tolerance in or on all raw agricultural commodities is toxicologically supported.

1. It is a synthetic replica of the naturally occurring pheromone attractant which already exists in nature.

2. The estimated exposure of Stirrup-M is well under the lowest aquatic toxicity value.

3. Stirrup-M is a mite-attracting pheromone formulation which is composed of two synthetic trimethyldodecatrienol isomers in roughly equal concentrations. Together they represent less than 2 percent of the total formulation.

4. Because the product represents less than 2 percent of the total formulation, the estimated exposure is well under the lowest aquatic toxicity value (1.8 ppm) by more than a 1,000-fold; therefore, it is highly unlikely that Stirrup-M will cause any deleterious effects to the environment.

A lack of demonstrable toxicity and near nonexistent potential for exposure to Stirrup-M indicates that its use to aid in tetranychid mite species control would not result in hazards to public health.

Due to the small quantity of product being used, and its rapid dissipation into the environment, the acceptable daily intake and maximum permissible intake considerations are not relevant to this regulation; the toxicological data in support of the exemption did not show any deleterious effects that would indicate a cause for concern from the use of this product.

Based on the data and information considered, the Agency concludes that the exemption from the requirement of a tolerance for Stirrup-M will protect the public health. Therefore, the exemption is proposed as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this document in the **Federal Register**, that this proposed rule be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments should bear a notation indicating the document control number, [PP 6F3434/P411]. All written comments filed in response to this proposed rule will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: March 9, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 is amended as follows:

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

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

2. Section 180.1086 is added to read as follows:

§ 180.1086 3,7,11-Trimethyl-1,6,10-dodecatriene-1-ol and 3,7,11-trimethyl-2,6,10-dodecatriene-3-ol; exemption from the requirement of a tolerance.

The insect pheromone containing the active ingredients 3,7,11-trimethyl-1,6,10-dodecatriene-1-ol and 3,7,11-trimethyl-2,6,10-dodecatriene-3-ol is exempted from the requirement of a tolerance in or on all raw agricultural commodities.

[FR Doc. 87-5686 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

ACTION

45 CFR Part 1207

Senior Companion Program; Non-Stipended Volunteers

AGENCY: Action.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements the provisions included in Pub. L. 99-551, Domestic Volunteer Service Act amendments of 1986, regarding volunteers serving without stipends in the Foster Grandparent and Senior Companion Programs.

DATE: Comments must be received by April 17, 1987.

ADDRESS: Written comments should be sent to: Assistant Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., M-1006, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: C. Wade Freeman, (202) 634-9355.

SUPPLEMENTARY INFORMATION: ACTION has determined that this regulation is not a major rule as defined by Executive Order 12291. The regulation will not result in any of the following:

1. Any effect on the economy;

2. Any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

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

Subpart C—Project Operations

1. Proposed § 1207.3-7 is a new section detailing the purpose, conditions of service and funding of non-stipended volunteers.

The Senior Companion Program is identified by No. 72.008 in the Catalog of Federal Domestic Assistance.

Pursuant to section 3(c)3 of E.O. 12291, entitled "Federal Regulation," the required review process has been completed by the Director of the Office of Management and Budget.

List of Subjects in 45 CFR Part 1207

Aged, Grant programs-social programs, Reporting and recordkeeping requirements, Volunteers.

It is proposed to amend 45 CFR Part 1207 as follows:

1. The authority citation for 45 CFR Part 1207 continues to read as follows:

Authority: Secs. 211(d)(e); 212, 213, 221, 222, 223, 402(14) and 420 of Pub. L. 93-313, 87 Stat. 402, 403, 404, 407 and 414, sec. 213 of Pub. L. 97-35, 97 Stat. 487, 42 U.S.C. 5011(d), (e); 5012, 5021, 5022, 5023, 5042(14), 5060 and 5013.

2. It is proposed to add § 1207.3-7 to read as follows:

§ 1207.3-7 Non-stipended volunteers.

(a) Purpose: Projects are encouraged to enroll persons aged 60 and over, who are not low-income, as non-stipended volunteers in order to:

(1) Open opportunities for and tap the unused resources of older Americans, and

(2) Expand needed services to unserved populations.

(b)(1) Conditions of Service: Over-income persons may not be enrolled as non-stipend volunteers in communities where a Retired Senior Volunteer Program (RSVP) with programs serving the frail elderly or children with special or exceptional needs is available. Foster Grandparent or Senior Companion projects contacted by individuals expressing interest in serving as non-stipend volunteers may contact ACTION for a determination if enrollment in the project is appropriate. After consultation with the affected project, ACTION will determine if enrollment is proper under these conditions.

(2) In instances where a Foster Grandparent or Senior Companion project either (i) invokes its privilege not to enroll the non-stipended volunteer, or (ii) ACTION determines that a suitable RSVP project is available in the community, the volunteer shall be referred to a suitable RSVP project for enrollment.

(3) Non-stipended volunteers serve under the following conditions:

(i) Their service does not supplant, replace, or displace any stipended volunteers.

(ii) No special privileges or status is granted or created among volunteers, stipended or non-stipended, and equal treatment is required.

(iii) Training, supervision and other support services and direct benefits, other than the stipend, are available equally to all volunteers.

(iv) All Regulations and requirements applicable to the Program, with the exception listed in #6, apply to all volunteers.

(v) Non-stipended volunteers may be placed in separate volunteer stations where warranted.

(vi) Non-stipended volunteers are encouraged to serve the 20-hour per week service schedule. The primary factor in determining the service schedule is the need to establish and maintain the one-to-one relationship. Deviation from the 20-hour service schedule on a case-by-case basis is determined by insuring reasonable conformity with the average ratio of clients to stipended volunteers in the project. Non-stipended volunteers are expected to serve a minimum of two clients, fifty weeks a year.

(vii) Non-stipended volunteers may contribute the cost of direct benefits.

(4) There are no requirements to enroll non-stipended volunteers. Implementation of these Regulations by a local project may not be a factor in awarding new or renewal grants.

(c) Funding: No appropriated funds may be used to pay any cost, including any administrative cost, incurred in implementing these Regulations. Such costs may be paid with:

(1) Funds received by the Director as unrestricted gifts.

(2) Funds received by the Director as gifts to pay such costs.

(3) Funds contributed by non-stipended volunteers.

(4) Locally-generated contributions in excess of the amount required by law.

Signed at Washington, DC, this 25th day of February, 1987.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 87-5788 Filed 3-17-87; 8:45 am]

BILLING CODE 6050-28-M

45 CFR Part 1208

Foster Grandparent Program; Non-Stipended Volunteers

AGENCY: ACTION.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements the provisions included in Pub. L. 99-551, Domestic Volunteer Service Act amendments of 1986, regarding volunteers serving without stipends in the Foster Grandparent and Senior Companion Programs.

DATE: Comments must be received by April 17, 1987.

ADDRESS: Written comments should be sent to: Assistant Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., M-1006, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: C. Wade Freeman, (202) 634-9355.

SUPPLEMENTARY INFORMATION: ACTION has determined that this regulation is not a major rule as defined by Executive Order 12291. The regulation will not result in any of the following:

1. Any effect on the economy;

2. Any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

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

Subpart C—Project Operations

1. Proposed § 1208. 3-7 is a new section detailing the purpose, conditions of service and funding of non-stipended volunteers.

The Foster Grandparent Program is identified by No. 72.001 in the Catalog of Federal Domestic Assistance.

Pursuant to section 3(c) 3 of E.O. 12291, entitled "Federal Regulation," the required review process has been

completed by the Director of the Office of Management and Budget.

List of Subjects in 45 CFR Part 1208

Aged, Grant programs-social programs, Reporting and recordkeeping requirements, Volunteers.

It is proposed to amend 45 CFR Part 1208 as follows:

1. The authority citation for 45 CFR Part 1208 continues to read as follows:

Authority. Secs. 211(a), 212, 221, 222, 223, 402 (14) and 420 of Pub. L. 93-113, 87 Stat. 402, 403, 404, 407, and 414, 42 USC 5011(a), 5012, 5021, 5022, 5023, 5042 (14), and 5060.

2. It is proposed to add § 1208.3-7 to read as follows:

§ 1208.3-7 Non-Stipended Volunteers.

(a) Purpose: Projects are encouraged to enroll persons aged 60 and over, who are not low-income as non-stipended volunteers in order to:

(1) Open opportunities for and tap the unused resources of older Americans, and

(2) Expand needed services to unserved populations.

(b)(1) Conditions of Service: Over-income persons may not be enrolled as non-stipended volunteers in communities where a Retired Senior Volunteer Program (RSVP) with programs serving the frail elderly or children with special or exceptional needs is available. Foster Grandparent or Senior Companion projects contacted by individuals expressing interest in serving as non-stipended volunteers may contact ACTION for a determination if enrollment in the project is appropriate. After consultation with the affected project, ACTION will determine if enrollment is proper under these conditions.

(2) In instances where a Foster Grandparent or Senior companion project either (i) invokes its privilege not to enroll the non-stipended volunteer, or (ii) ACTION determines that a suitable RSVP project is available in the community, the volunteer shall be referred to a suitable RSVP project for enrollment.

(3) Non-stipended volunteers serve under the following conditions:

(i) Their service does not supplant, replace, or displace any stipended volunteers.

(ii) No special privileges or status is granted or created among volunteers, stipended or non-stipended, and equal treatment is required.

(iii) Training, supervision and other support services and direct benefits, other than the stipend, are available equally to all volunteers.

(iv) All Regulations and requirements applicable to the Program, with the exception listed in #6, apply to all volunteers.

(v) Non-stipended volunteers may be placed in separate volunteer stations where warranted.

(vi) Non-stipended volunteers are encouraged to serve the 20-hour per week service schedule. The primary factor in determining the service schedule is the need to establish and maintain the one-to-one relationship. Deviation from the 20-hour service schedule on a case-by-case basis is determined by insuring reasonable conformity with the average ratio of clients to stipended volunteers in the project. Non-stipended volunteers are expected to serve a minimum of two clients, fifty weeks a year.

(vii) Non-stipended volunteers may contribute the cost of direct benefits.

(4) There are no requirements to enroll non-stipended volunteers. Implementation of these Regulations by a local project may not be a factor in awarding new or renewal grants.

(c) Funding: No appropriated funds may be used to pay any cost, including any administrative cost, incurred in implementing these Regulations. Such costs may be paid with:

(1) Funds received by the Director as unrestricted gifts.

(2) Funds received by the Director as gifts to pay such costs.

(3) Funds contributed by non-stipended volunteers.

(4) Locally-generated contributions in excess of the amount required by law.

Signed at Washington, DC, this 25 day of February, 1987.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 87-5787 Filed 3-17-87; 8:45 am]

BILLING CODE 6050-28-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-40, RM-5478]

Radio Broadcasting Services; Stamps, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by KMSL(FM) Radio, licensee of Station KMSL(FM), proposing the substitution of FM Channel 263C2 for Channel 261A at Stamps, AR, and modification of its license accordingly, to provide that community with its first wide-coverage area FM service.

DATES: Comments must be filed on or before May 4, 1987, and reply comments on or before May 19, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Eugene T. Smith, Esq., 715 G St., SE, Washington, DC 20003 (Counsel).

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530).

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-40, adopted February 5, 1987, and released March 12, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *et parte* contract.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division Mass Media Bureau.

[FR Doc. 87-5796 Filed 3-7-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 232

Department of Defense Federal Acquisition Regulation Supplement; Contract Financing

AGENCY: Department of Defense (DOD).

ACTION: Proposed rule and request for comment.

SUMMARY: The Defense Acquisition Regulatory Council is proposing to modify the DOD FAR Supplement at 232.102(S–70) to provide coverage for provisional delivery payments which was previously included in Appendix E of the Defense Acquisition Regulation but was not carried forward to either the Federal Acquisition Regulation or the DOD FAR Supplement.

DATE: Comments on the proposed revision should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, on or before May 18, 1987. Please cite DAR Case 86–65 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, ODASD(P)/DARS, c/o OASD (A&L) (M&RS), Room 3C841, The Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202)697–7267.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory Council is proposing to modify the DOD FAR Supplement at 232.102(S–70) to specify authority and procedures for provisional delivery payments to contractors for supplies and services delivered to and accepted by the Government. Coverage for provisional delivery payments had been included in Appendix E of the Defense Acquisition Regulation but was not carried forward to either the Federal Acquisition Regulation or the DOD FAR Supplement.

B. Regulatory Flexibility Act Information

Incorporation of the proposed rule will have a positive effect on those small entities performing under undefinitized contract actions because it would allow provisional delivery payments. However, information currently available is insufficient to permit a determination as to the extent of such impact. It is expected that the impact will not be significant on a substantial number of small entities because there are relatively few instances where deliveries are made prior to definitization of final prices. Comments are hereby solicited. Comments from small entities concerning DFARS Subpart 232.1 will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 87–610D in all correspondence.

C. Paperwork Reduction Act Information

The proposed coverage does not contain new information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 232

Government procurement.

Owen L. Green, III,
Acting Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed to amend 48 CFR Part 232 as follows:

1. The authority for 48 CFR Part 232 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.

PART 232—CONTRACT FINANCING

2. Section 232.102 is amended by adding paragraph (S–70) to read as follows:

§ 232.102 Description of Contract Financing Methods.

* * * * *

(S–70) *Provisional Billing Payments.* The contracting officer may establish provisional billing prices to pay contractors for the costs of supplies and services delivered to and accepted by the Government on undefinitized contract actions. Such billing arrangements are restricted to (1) letter contracts contemplating a definitive fixed-priced type of contract, (2) orders under basic ordering agreements, (3) spares provisioning documents annexed to contracts, and (4) fixed-price contracts for increases in contract price for unpriced equitable adjustments. The provisional billing prices shall not prejudice the price subsequently definitized between the contracting officer and contractor. They should be used sparingly and priced conservatively to cover no more than a reasonable estimate of the costs of items to be included in the provisional billing arrangement and shall not include any amount for profit. Provisional delivery payments shall not exceed funds obligated for the undefinitized contract action and shall be reduced by liquidating previous progress payments made on the items delivered to and accepted by the Government in accordance with the provisions of the Progress Payments clause.

[FR Doc. 87–5858 Filed 3–17–87; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 22]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking; Action on petitions for rulemaking.

SUMMARY: This notice responds to three petitions for rulemaking to amend the test procedures and specifications for replaceable bulb headlamps contained in Motor Vehicle Safety Standard No. 108. These petitions were filed by two West German lighting manufacturers, Hella K.G. and Robert Bosch GmbH, and by an American vehicle manufacturer, Ford Motor Company.

The agency has granted Hella's request for modified performance of vented headlamps, Bosch's request for a humidity test procedure that would utilize an airstream directed across the lens of the headlamp, and Ford's request for a restated composition of gasoline as a test fluid in the chemical resistance test. In implementation of these grants, the agency is conducting research on vented headlamps and the humidity test procedure and is issuing a proposal concerning the composition of gasoline.

NHTSA has denied Hella's request for a modification in bulb specifications and testing tolerances, and Ford's request to delete tar remover from the list of fluids in the chemical resistance test as well as to revise required amounts of test fluids and their method of application to the lamps.

NHTSA has also denied Hella's request for an increase in maximum candlepower at test points above the horizontal.

DATE: Comment closing date for the proposal is May 4, 1987. Effective date of the amendment would be 30 days after publication of the final rule in the **Federal Register.** Any request for an extension of time in which to comment must be received not later than 10 days before the published expiration date of the comment period (49 CFR 553.19).

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh St. SW., Washington, DC 20590. (Docket hours are from 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-5276).

SUPPLEMENTARY INFORMATION: On June 2, 1983, NHTSA amended 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* to establish performance requirements for replaceable bulb headlamps and their light sources, and appropriate test procedures (48 FR 24690). This notice responds to petitions from three manufacturers for modifications to and deletions of certain of the requirements and procedures.

On July 11, 1983, Hella KG of the Federal Republic of Germany petitioned for reconsideration of the amendments. Because the agency did not receive the petition until more than 30 days following publication of the amendment in the **Federal Register**, NHTSA treated it as a petition for rulemaking pursuant to 49 CFR Part 552, in accordance with its regulations on petitions for reconsideration, 49 CFR 553.35(a).

The petition related to seven aspects of the June amendment; Hella later withdrew its requests for action on three of them.

The first remaining request concerned the appropriateness of the test procedures for vented headlamps. Specifically, Hella viewed the humidity test as inappropriate, and stated that modified dust and moisture requirements should be substituted for it. The agency does not agree. However, NHTSA believes that venting of plastic headlamps has a relationship as to how these lamps perform in Standard No. 108's internal heat test, and thus may be desirable for some headlamp system designs. The agency wishes to be able to distinguish inferior venting systems from superior ones and has concluded that research is needed to find an appropriate heat test that discriminates between good and bad venting systems. Therefore, NHTSA grants this aspect of the Hella petition, in so far as it relates to a closer study of tests for ventilated headlamp systems, and it has initiated research on this subject.

The second remaining aspect of Hella's petition related to refinement of the specifications of the standardized replaceable light source. Hella asked that specifications be added for coil dimensions and tolerances, that greater attention be paid to flux specifications which it termed "inadequate", that headlamps not be tested with bulbs selected at random, and that inconsistencies in abbreviations be corrected. NHTSA denies Hella's request for amendments of the nature specified. Petitioner provided no data to support its request for specifications for coil dimensions and tolerances. Further, it did not support its criticism of flux specifications. The agency did not intend to adopt a standard bulb for testing purposes, and wishes replaceable bulb headlamps to be designed to meet photometric specifications with any available standardized replaceable light source, whether original equipment or replacement equipment. Finally, NHTSA views Hella's remarks on abbreviation as a difference of opinion on format, and has concluded that the existing format is adequate and need not be changed. However, it notes that the amendment to Standard No. 108 published on May 7, 1986 (51 FR 16847) modifying specifications for the light source is in essence responsive to Hella's concerns.

Petitioner's third remaining request was that there be increased "spreadlight" intensities at test point 10U and above. The current intensity at that test point is 125 candela; Hella asked for an increase to 400 candela, representative of European design and practice. On December 28, 1984, NHTSA asked the petitioner to furnish further information in support of its request, so that a decision could be made. No data have been supplied, and this aspect of the petition is therefore denied.

Finally, petitioner requested removal of tolerances from environmental tests, believing that they made the requirements inconsistent and ambiguous, as well as requesting that the standard incorporate detailed instructions on how representative samples should be chosen for testing. In response, the agency has already reduced tolerances of the humidity test to a certain extent, but has concluded that tolerances are necessary because of variations in test equipment. Therefore, NHTSA does not intend to eliminate them. The action already taken, however, should meet some of the petitioner's concern. NHTSA views more detailed instructions as inconsistent with the basic regulatory philosophy that standards be performance oriented and that replaceable bulb headlamps tested should be representative of those obtainable by the public on the open market. Therefore, this aspect of the petition is also denied.

On October 21, 1985, Robert Bosch GmbH, a headlamp manufacturer in Stuttgart, Germany, petitioned for a modification in paragraph S6.8, the humidity test for replaceable bulb headlamps. In its view, the test does not fully account for actual operating conditions typical of ventilated headlamps. If condensation occurs on both the reflector and lens after a humidity test, it is not possible to say whether the condensation occurs as a results of insufficient sealing of the replaceable light source, or from the humidity that remains inside the lamp after a bulb with its seal is inserted. As a result of the heat generated in the test, the air in the interior of the lamp expands, with pressure compensation ocurring through the ventilation openings. When the lamp cools, air enters the headlamp interior carrying moisture which is deposited in the interior of the headlamp. If there is no flow of air within the humidity test box, the 1-hour soak period is insufficient "to establish a well-balanced proportion between the humidity inside the headlamp and the outside conditions". Accordingly, Bosch believes that for judging compliance of vented headlamps "it is necessary that there is a flow of air inside the test box during the soak period". It believes that a flow of between 3 and 6 feet per second (2 to 4 m.p.h.) would be sufficient, when directed to the headlamp from the front. NHTSA has concluded that this petition for rulemaking should be granted. However, at the present time it is not prepared to issue a proposal to amend S6.8, but it is in the process of performing tests to assess the points raised by Bosch in its petition.

On June 19, 1985, Ford Motor Company filed a petition for amendment of the chemical resistance test (S6.4) added to Standard No. 108 in 1983, and applicable to replaceable bulb headlamps with plastic lenses. In Ford's view, the definitions of two of the five specified test fluids were imprecise (gasoline and tar remover), and one of them redundant (tar remover), and the manner in which test fluids are required to be applied to the headlamp is unreasonably stringent.

Ford's first argument is that the specification of gasoline is solely in terms of its minimum octane level (which is 89), and does not take into account the existence and concentration of aromatic hydrocarbons. Ford states that these ingredients, and not octane levels, are determinative of whether gasoline reacts with plastic. Mentioning tests that it had conducted, Ford has concluded that "different compositions of gasoline, all of which would satisfy the definition in the standard, can produce significantly differing results in their reaction with plastics." The constituents of gasoline that produce

differing results "appear to be any of several aromatic hydrocarbons" which are not mentioned in the definition, and whose effects are independent of the octane rating of the gasoline. For these reasons, Ford has concluded that there is a "lack of specificity" in the definition which renders the standard "nonobjective, unreasonable, and impracticable".

Ford's proposed solution to the problem is presented in its petition. It has concluded that the principal reactive constituents in gasoline are "toluene, xylene, and/or benzene", and that toluene appears to be slightly more reactive with polycarbonate than the others. Accordingly, it has petitioned that the standard be amended to delete gasoline as a test fluid, and to replace it with ASTM Reference Fuel D. This fluid is appropriate, in Ford's opinion, because it contains 40% by volume of toluene and 60% by volume of iso-octane "(a usual constituent of high-octane gasoline)".

The phenomenon of aromatic hydrocarbons was first detected in the agency's investigation of early production replaceable bulb headlamps manufactured for use on 1984 Lincoln Mark VII passenger cars (agency file CIR 2726), an investigation which remains open. The agency found that certain of these lamps manifested cracked housings in the aftermath of a chemical resistance test using gasoline. Ford has sought to convince the agency that the reason the test failures occurred was that the gasoline used in the test was not "fresh" from the pump, and that aromatic hydrocarbons had risen to a level not likely to be encountered in the real world. The percentage of aromatic hydrocarbons in the test fuel was slightly over 47. This level is above that requested by Ford, indicating that ASTM Reference Fuel D is not a candidate fuel that would necessarily be as stringent a fluid to demonstrate chemical resistance. In addition, Ford noted that gasolines typically have 3 percent benzene. Indeed, the Motor Vehicle Manufacturers Association National Gasoline Survey for the Winter of 1983 indicates that a level of 40 percent does not approach the highest aromatic content that may occur. That survey, of gasolines available in Boston, New Orleans, and Philadelphia, found maximum values in those cities, respectively, of 51.2% (Amoco), 47.5% (Gulf), and 67.9% (Mobil). The agency has concluded that a level of 50% or more of aromatic hydrocarbons is often present in many different brands of gasoline. It is therefore proposing that the definition of gasoline in S6.4(b)(1) be amended by specifying a test fluid consisting of percentages by volume of the following constituents: toluene (47), benzene (3), and iso-octane (50). NHTSA realizes that some actual gasoline, such as that produced by Mobil, may have significantly higher levels of aromatic hydrocarbons than this proposed formulation. Thus the agency has granted Ford's petition for rulemaking on the general subject of gasoline composition, without agreeing with Ford on the particulars of that composition and we invite comment on the appropriateness of the levels proposed for each of the three constituents.

Ford has also petitioned for the deletion of tar remover as a test fluid on the ground that it is redundant. It said that the significant ingredient in that fluid, aromatic hydrocarbons, is present in a lower volume than in gasoline. However, if the agency disagrees, Ford asked that its definition be amended, also in the interest of greater specificity. Currently S6.4(b)(2) defines it as "petroleum base with xylene". Ford submitted that the composition be specified as "50% by volume of mineral spirits, 25% by volume of toluene and 25% by volume of varnish makers and painters (VM & P) naphtha" with certain properties such as specific gravity and flash point that Ford sets out in detail.

The agency has reviewed Ford's petition on this issue. It does not agree that the use of the fluid is redundant because it view xylene, as well as toluene, as components of importance. Therefore, it denies Ford's petition for deletion of tar remover. It agrees, however, that a clarification of the composition of tar removal may be desirable, and therefore grants Ford's petition on the subject. However, because the Ford formulation does not include xylene, the agency has decided not to propose the composition recommended by Ford. Instead, it has decided in the interests both of international harmonization and motor vehicle safety to propose the specification used in the chemical resistance test of Canadian Motor Vehicle Safety Standard No. 108: 45% by volume of xylene, and 55% by volume of mineral spirits.

In addition, at its own initiative, the agency is proposing a clarification of "power steering fluid" to be the fluid specified by the vehicle manufacturer for use in the vehicle for which the replaceable bulb headlamp is intended to be installed.

Finally, Ford has petitioned for a change in the chemical resistance test procedure of S6.4. This specifies that the exterior lens surface of the headlamp and top surface of the lens-reflector joint "shall be wiped once to the left and once to the right with a 6-inch square soft cotton cloth . . . which has been saturated once in a container with 2 ounces" of a test fluid. Ford does not believe that this fairly represents the conditions under which a headlamp in service would be exposed to the test fluids, i.e., a situation in which any of the fluids would be "applied with a rag that is so drenched that fluid actually runs and drips from the rag as it is being wiped across the lens surface." Ford thus asked that the rag be "wetted" rather than "saturated" and suggested 3 milliliters as an appropriate amount, further recommending that the test cloth be folded to a 3-inch square and wiped across the lens in 3 cycles, each covering a different area of the lens.

NHTSA disagrees with Ford's arguments, and denies its petition. The chemical resistance test seeks to assure the integrity of the lens and housing of the headlamp in the presence of fluids commonly used in motor vehicles with which it may come into contact either deliberately or inadvertently. The agency believes that the concentration of gasoline used provides assurance that the lens and housing will perform adequately under adverse conditions which can occur during the servicing of a car.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket

at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. The proposal would impose no additional requirements nor alter the cost impacts of requirements already adopted.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The proposal should have no effect on the human environment since it merely clarifies and modifies existing test procedures.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. For the reasons discussed above, I certify that this proposal would not have a significant economic impact upon a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and motor vehicle lighting equipment, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles and lighting equipment will not be impacted.

The engineer and lawyer primarily responsible for this proposal are Jere Medlin and Taylor Vinson respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR Part 571 would be amended as follows:

1. The authority citation for Part 571 would continue to read as follows:

Authority: Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50 and 501.8.

2. Paragraphs (b)(1), (b)(2), and (b)(3) of paragraph S6.4 of § 571.108 would be revised to read as follows:

§ 571.108 Standard No. 108, Lamps, reflective devices, and associated equipment.

* * * * *

S6.4 Chemical resistance.

* * * * *

(b)* * *

(1) Gasoline unleaded, 89 octane or above $(R+M/2)$ (consisting by volume of 47% toluene, 3% benzene, and 50% iso-octane) used per OSHA Std. 29 CFR 1910.106, *Handling Storage and Use of Flammable Combustible Liquids*.

(2) Tar remover (consisting by volume of 45% xylene and 55% petroleum base mineral spirits).

(3) Power steering fluid (as specified by the manufacturer of the motor vehicle on which the headlamp is intended to be installed).

* * * * *

Issued on: March 13, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-5812 Filed 3-17-87 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 70345-7045]

Spiny Lobster Fishery in the Gulf of Mexico and the South Atlantic

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 1 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic (FMP). This proposed rule provides for measures which (1) include slippers lobster in the management unit and prohibit the stripping of eggs from berried (egg-bearing) female slipper lobsters, (2) require permits for commercial harvesting and separation of spiny lobster tails at sea, (3) change the fishing seasons for commercial and recreational harvest of spiny lobsters, (4) establish a recreational bag limit, and (5) revise the requirements for holding undersized spiny lobsters for use as attractants. The intended effect of this rule is to prevent overfishing of the spiny lobster and slipper lobster stocks, to rebuild and maintain the stocks at a maximum sustainable yield (MSY) level through protection of undersized lobsters, and to provide for more consistent State and Federal management measures.

DATES: Written comments must be received on or before Saturday, April 18, 1987.

ADDRESSES: Comments on the proposed rule and requests for copies of Amendment 1 to the FMP, the supplemental environmental assessment, and the supplemental regulatory impact review should be sent to Michael E. Justen, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL, 33702.

Comments on the information collection requirements of this proposed rule may be sent to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, Attention: Desk Officer for NOAA.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3722.

SUPPLEMENTARY INFORMATION: The spiny lobster fishery is managed under the FMP and its implementing regulations at 50 CFR Part 640 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). This proposed rule would implement Amendment 1 to the FMP, which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils).

Background

The FMP manages the spiny lobster fishery throughout the exclusive economic zone (EEZ) off the South Atlantic coastal States from the Virginia/North Carolina border south and through the Gulf of Mexico to the United States/Mexico border. The proposed rule applies only to this area. The management unit for the FMP consists of the spiny lobster *Panulirus argus*; this rule proposes to add the slipper (Spanish) lobster *Scyllarides nodifer*.

Optimum yield (OY)

OY for the spiny lobster fishery is specified, in the FMP, to be all spiny lobsters with a carapace length of more

than 3.0 inches, or having a tail not less than 5.5 inches in length, that can be harvested legally by commercial and recreational fishermen given existing technology and prevailing economic conditions. In the FMP, OY is estimated to be 9.5 million pounds.

OY for the slipper (Spanish) lobster fishery is specified as all non-eggbearing slipper lobster that can be harvested legally by commercial and recreational fishermen given existing technology and prevailing economic conditions.

Permit requirements

Currently, there are no permit requirements for lobsters in the EEZ. Historically, Florida has issued a general spiny lobster vessel permit and a tail separation permit for commercial fishing craft operating in State waters. In the past, there was no need to issue permits to fish for spiny lobsters in Federal waters. However, two major problems have occurred in the spiny lobster fishery which necessitate the issuance of Federal permits.

First, the spiny lobster fishery is substantially overcapitalized: the industry has requested both the State and Federal governments to evaluate limited entry. Both Councils and NMFS are jointly funding an anthropological and economic study of the fishery with particular emphasis on identifying alternative limited entry programs. Currently, anyone can fish in Federal waters at no cost and in Florida's waters for a $50.00 permit fee. Consequently, although there are only about 600 commercial fishing craft in the fishery, over 4,000 Florida permits have been issued as of the 1986 fishing season. Obviously, any consideration of a limited entry program must first identify the participants in the fishery and associated user groups. The issuance of Federal spiny lobster fishing craft permits to owners or operators with ten percent earned income from commercial fishing is needed to (1) identify those lobster fishing firms that can be considered as commercial fishermen, (2) provide the opportunity for permit sanctions against repeat offenders, and (3) prevent recreational fishermen from circumventing the bag limit. It is necessary to identify user groups to determine their relative impacts on the resource and to assure a fair and equitable allocation of the resource. The opportunity to assess permit sanctions against repeat offenders has been endorsed by the NOAA General Counsel as an effective enforcement tool. A duplication of Florida permit requirements is necessary because Florida does not adequately identify the various user groups harvesting the resource in either State or Federal waters. In addition, the Federal permit system is required to complement Florida's permit requirements to provide better enforcement of both State and Federal management measures.

Second, historically, Florida has issued a special permit to separate the carapace and tail of the spiny lobster (i.e., tailing) while at sea: otherwise tailing was prohibited. Currently, tailing is permitted in the EEZ. The lack of a tailing prohibition in Federal waters has dramatically hampered both State and Federal efforts at enforcing the minimum size requirement of § 644.22(a) and the spear fishing prohibition of § 640.23(b). The fishing industry and State and Federal enforcement agencies have reached an agreement regarding the prohibition on tailing and the responsibility for issuing the tailing permit to qualified vessel owners or operators; Florida has discontinued tailing permits for State waters, since tailing is needed to maintain a quality product only when the vessel is operating in the EEZ away from port for two or more days. Tailing is to be prohibited in the EEZ except by special permit, with the requirement that the permittee is a commercial fisherman, fishes in the EEZ, and makes fishing trips of 48 or more hours' duration. This measure is anticipated to have no negative impact on the resource or the commercial and recreational fisheries.

Fishing seasons

The regular fishing season of July 26 through March 31 for spiny lobsters is proposed to be changed to August 5 through March 31 to further protect the population during the spawning season which extends from April through August. Annual increases in fishing effort have resulted in proportionally more lobsters being harvested during the beginning of the fishing season: the increased harvest during July and August is coincident with the final months of the spawning season and one of the major periods of molting and growth during the year.

This change is proposed to maintain compatibility with Florida regulations, because the Florida Marine Fisheries Commisssion (FMFC) is proposing the same seasonal change for State waters. The impact on the commercial and recreational fisheries will be significant initially, since fishing will be prohibited for an additional ten days at the beginning of the fishing season; however, it is anticipated that total catch for the August-September period will not decrease because those lobsters not harvested during the ten-day closure extension will be harvested when the season opens. Consequently, the overall impact will be positive because the change in season dates will provide a greater opportunity for undersized lobsters to molt and grow to leagal size before the opening of the season; August is a period of increased molting frequency and growth for spiny lobsters.

Gear modifications

Current regulations require undersized lobsters used as attractants to be kept in a shaded live box while being transported between traps. Typical live boxes currently in use are constructed of wood with numerous openings to allow free flow of air to the lobsters. Recent research demonstrates that the holding of lobsters exposed to air causes significant mortality, has reduced potential yield from the fishery, and has prevented the fishery from obtaining OY. This proposed rule requires the live box to be constructed so that the undersized lobsters held as attractants will be completely immersed in aerated, circulating water to prevent desiccation due to exposure to air. The consequent increased survivability of attractant lobsters will significantly increase both the catch of legal lobsters and available stock size of undersized lobsters, given effective compliance and enforcement.

Slipper (Spanish) lobster

The FMP currently does not regulate slipper lobsters, because at the time the FMP was implemented no directed harvest of slipper lobsters occurred. Currently, slipper lobsters are harvested seasonally by shrimp vessels with trawl gear. Landings have averaged about 80,000 pounds annually with about half harvested during the summer reproductive season. A substantial quantity (greater than 50 percent) of the summer landings are of egg-bearing females. Evidence from other slipper lobster fisheries, worldwide, indicate that the slipper lobster stock is not capable of supporting extensive commercial fishing. To maintain the incipient fishery without overfishing the population, the harvest, possession, or stripping of egg-bearing female slipper lobsters will be prohibited and all captured egg-bearing slipper lobsters must be released alive to the open water.

Recreational bag limit

Currently, there is no bag limit on spiny lobsters in the EEZ: this differs from the Florida regulation which restricts the possession of spiny lobsters to 24 lobsters per fishing craft per day without a valid permit. The absence of a

bag limit in Federal waters has substantially hampered the State's efforts at enforcing its bag limit. Further, the bag limit of six lobsters per person per day is needed, in conjunction with the permit requirement, to better define the recreational and commercial user groups. The current Florida permit is available to anyone who pays the $50 permit fee and does not differentiate between a commercial or recreational user. Florida is currently considering a bag limit of six lobsters per person per day to be compatible with this proposed bag limit in Federal waters.

Recreational Fishing Permit

Currently, there is no requirement for a recreational fishing permit in either the EEZ or State waters. A recreational fishing permit requirement has been developed as part of this amendment. NOAA proposes to implement recreational fishing permits in the EEZ through a regulatory amendment upon approval of a recreational fishing permit for State waters by Florida. Criteria for this permit will appear in the proposed regulatory amendment at a later date.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 99–659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of the amendment to the FMP and regulations. At this time the Secretary has not determined that Amendment 1 to the FMP, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Councils prepared an environmental assessment (EA) for this amendment and concluded that there will be no significant impact on the environment due to this rule. A copy of the EA may be obtained from NMFS (See ADDRESSES).

The Administrator, NOAA, has determined that this proposed rule is not a "major rule", requiring the preparation of a regulatory impact analysis under Executive Order 12291. The amendment's management measures are designed to maintain and increase current landings and the productivity of the stock, restore overfished stocks, and prevent overfishing of the spiny and slipper (Spanish) lobster stocks. The major benefits from this amendment are greater than the associated Federal costs to manage the fishery on a continuing basis. The Councils prepared a supplemental regulatory impact review (SRIR) which concludes that this proposed rule will have the following economic effect.

Greater benefits will result from this proposed amendment, due to increased poundage, than from the alternatives considered and rejected. The no-action alternative would have resulted in a 20 percent decline in long-term abundance, if fishing pressure remained unchanged. The proposed regulations should restore the spiny lobster landings to within five to ten perdent of OY, estimated in the FMP to be 9.5 million pounds, in three to five years, given effective compliance with and enforcement of proposed regulations. The proposed regulations, which strengthen the FMP's objectives, are expected to increase the likelihood of achieving the proposed benefits described in the FMP through more effective enforcement and a reduction in mortality of undersize lobsters. No regulatory-induced price increases nor Federal enforcement costs should occur. A copy of the SRIR may be obtained from NMSF (see ADDRESSES).

This proposed rule is exempt from the procedure of Executive Order 12291, under section (a)(2) of that order. The proposed rule is being reported to the Director, Office of Management and Budget (OMB), with an explanation of why it is not possible to follow procedures of the order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because it will not significantly reduce harvest levels, alter current fishing practices, or impose new costs on the industry. As a result, a regulatory flexibility analysis was not prepared.

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act (RPA). A request to collect this information under this mandatory requirement has been submitted to OMB for review under section 350(h) of the PRA. Comments on this requirement may be sent to OMB (see ADDRESSES).

The Councils have determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana. Georgia and Texas do not have approved coastal zone management programs. These determinations have been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 640

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 13, 1987.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 640 is proposed to be amended as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

1. The authority citation for Part 640 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 640.1, the second sentence is revised, to read as follows:

§ 640.1 Purpose and scope.

* * * The regulations in this part govern fishing for spiny lobsters and slipper (Spanish) lobsters by vessels of the United States within the EEZ in the Atlantic Ocean and Gulf of Mexico along the coast of the South Atlantic States from the Virginia/North Carolina border south and through the Gulf of Mexico.

3. Section 640.2 is amending by removing the definition for *Fishery conservation zone (FCZ)*, revising the definitions for *Fish* and *Live box*, and adding in alphabetical order new definitions for *Commercial fishing, Exclusive economic zone (EEZ), Recreational fishing*, and *Slipper (Spanish) lobster*, to read as follows:

§ 640.2 Definitions.

* * * * *

Commercial fishing means any fishing or fishing activities which result in the harvest of any marine or freshwater organisms, one or more of which (or parts thereof) is sold, traded, or bartered.

* * * * *

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fish includes the spiny lobster, *Panulirus argus*, and the slipper (Spanish) lobster, *Scyllarides nodifer*.

* * * * *

Live box means a container with aerated circulating seawater that is used for holding live lobsters aboard a vessel.

* * * * *

Recreational fishing means fishing or fishing activities which result in the harvest of fish, none of which (or parts thereof) is sold, traded, or bartered.

* * * * *

Slipper (Spanish) lobster means the species *Scyllarides nodifer*.

* * * * *

4. Section 640.4 is revised, to read as follows:

§ 640.4 Permits and fees.

(a) *Commercial fishing permit*— (1) *Applicability.* Owners or operators of fishing vessels which fish for spring lobster and harvest or possess more than six sping lobsters per person per day in the EEZ, or sell spiny lobster harvested in the EEZ, are required to obtain a vessel permit from the Regional Director.

(2) *Application for permit.* (i) An application for a permit must be submitted to the Regional Director and signed by the owner or operator of the vessel. Permit applications may be made at any time during the year.

(ii) Permit applicants must provide the following information:

(A) Name, mailing address including zip code, and telephone number of the owner and the operator of the vessel:

(B) Name of vessel;

(C) The vessel's official number;

(D) Home port or prinicpal port of landing, gross tonnage, radio call sign and length of vessel;

(E) Approximate live box capacity in gallons and number of lobsters;

(F) A sworn statement by the owner or operator certifying that at least ten percent of his earned income was derived from commercial fishing during the preceding calendar year (January 1 through Dec;ember 31), and;

(G) Any other information concerning earned income, vessel, gear characteristics, and fishing area requested by the Regional Director.

(iii) Spiny lobster permittees of any State must also provide a copy of their State permit, in addition to the information required in § 640.4(a)(2)(ii).

(3) *Proof of certification.* The Regional Director or his designee may require the applicant to provide documentation supporting the sworn statement required under paragraph (a)(2)(ii)(F) of this section before a permit is issued or to substantiate why such a permit should not be revoked under paragraph (a)(9) of this section.

(4) *Issuance.* (i) The Regional Director or his designee will issue permits to the applicants only during June and July of each year, after permit applications are submitted according to paragraph (a)(2) of this section. The Regional Director may issue permits at other times to newly registered or documented vessels, or in case of demonstrated hardship. Until the permit is received, fishermen must comply with the possession limits under § 640.21(c).

(ii) The Regional Director or his designee may grant permits to owners or operators of vessels who fail to meet the annual income requirement specified in § 640.4(a)(2)(II)(F) is case of documented hardship where the applicant has a history of ten percent or more dependence on commercial fishing.

(5) *Fees.* A fee may be assessed for any permit issued under this section. The cost of the permit, if any, will be posted on the application form; it will be limited to the administrative cost of issuing the permit and may not exceed $10.

(6) *Duration.* A permit is valid only for the duration of the year for which it is issued (August 1–July 31) unless revoked or suspended under Subpart D of 15 CFR Part 904.

(7) *Transfer.* A permit issued under this section is not transferable or assignable except on sale of the vessel to a new owner. A permit is valid only for the fishing vessel for which it is issued. New owners purchasing a permitted vessel to fish for spiny lobsters must comply with the provisions of paragraph (a)(2) of this section. The application must be accompanied by a copy of any executed (signed) bill of sale. New owners who have purchased a permitted vessel may fish with the preceding owner's permit until a new permit has been issued, for a period not to exceed sixty days from the date of purchase. Until a new permit is received, a copy of the executed (signed) bill of sale must be aboard the vessel and available for inspection by an authorized officer.

(8) *Display.* A permit issued under this section must be carried on board the fishing vessel, and the vessel must be identified as provided for in § 640.6. The operator of a fishing vessel must present the permit for inpection upon request of any authorized officer.

(9) *Sanctions.* Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this section.

(10) *Alteration.* Any permit which is altered, erased, or mutilated is invalid.

(11) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(12) *Change in permit application information.* Permittes must notify the Regional Director within 30 days after any changes in the permit application information required by § 640.4(a)(2).

(b) *Recreational fishing permit.* [Reserved]

(c) *Tail separation permit*—(1) *Applicability.* Owners or operators of fishing vessels which possess, or have applied for, a commercial fishing permit under paragraph (a) of this section may apply for a permit for the purpose of separating the carapace and tail of spiny lobsters harvested in the EEZ and possessing separated spiny lobster tails while fishing in the EEZ.

(2) *Application for a tail separation permit.* An application for a spiny lobster tail separation permit may be made to the Regional Director anytime during the year and must include the following information: (i) A copy of a commercial fishing permit or commercial fishing permit application.

(ii) A sworn statement by the owner or operator of the vessel certifying that his fishing activity is routinely conducted in the EEZ for extended periods of time (a minimum of 48 hours) away from his home or principal port and his activities necessitate the separation of carapace and tail to maintain a quality product.

(iii) The Regional Director or his designee may require the applicant to provide documentation supporting the sworn statement in paragraph (a)(2)(ii)(F) of this section before a permit is issued or to substantiate why such a permit should not be revoked under paragraph (a)(9) of this section.

(3) *Permit conditions.* The tail separation permit, when issued, becomes a part of the commercial fishing permit and is subject to the conditions described in paragraphs (a)(4) through (11) of this section.

(5) Section 640.7 is amended by revising the introductory text and designating it as paragraph (a); redesignating existing paragraphs (a) through (r) as (a)(1) through (a)(18): in the newly redesignated (a)(15), removing the reference to paragraph "(n)" and adding "(9)" in its place, and in the newly redesignated paragraph (a)(18), removing the word "or"; redesignating existing paragraph (s) as (b); revising the newly redesignated paragraphs (a)(4), (a)(7), and (b); and adding new paragraphs (a)(19), (20), and (21), to read as follows:

§ 640.7 General prohibitions.

(a) It is unlawful for any person to do any of the following:

* * * * *

(4) Harvest spiny lobsters with traps during the closed season specified in § 640.20 (b) and (c);

* * * * *

(7) Strip eggs from or otherwise molest any berried lobster, as specified in § 640.21;

* * * * *

(9) Fish commercially for spiny lobsters without a permit, as required by § 640.4:

(20) Fail to transfer or to display a permit as provided for in § 640.4(a)(7) and (8); or

(21) Falsify or fail to report information required to be submitted by § 640.4(a)(2).

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

6. In § 640.20, paragraph (b) is removed, paragraphs (c) and (d) are redesignated as paragraphs (b) and (c), and paragraph (a) and the newly redesignated paragraph (b) are revised, to read as follows:

§ 640.20 Seasons.

(a) *Fishing season.*

(1) The commercial and recreational fishing season for spiny lobsters begins on August 6, one hour before official sunrise, and ends March 31, one hour after official sunset.

(2) Spiny lobster traps may be placed in the water on August 1, one hour before official sunrise, but spiny lobsters may not be harvested until the beginning of the season. Traps must be removed prior to one hour after official sunset on April 5.

(3) A ten-day extension for trap removal (ending at one hour after official sunset on April 15) may be granted upon request to the Regional Director. Such requests must document the hardship or emergency which resulted in the inability to remove traps prior to April 6. Any spiny lobster taken between 0001 hours April 1 and 2400 hours April 15 must be returned to the water unharmed.

(4) Traps in the management area during the period between 0001 hours April 16 and 2400 hours July 31 will be considered unclaimed or abandoned property and may be disposed in accordance with § 640.6(i).

(b) *Special non-trap recreational fishery.* There is a special non-trap recreational fishing season from one hour before official sunrise on July 18, 1987, until one hour after official sunset on July 19, 1987. Effective January 1, 1988, the special non-trap recreational fishing season will be the first full weekend preceding August 1st from 0001 hours Saturday until 2400 hours Sunday.

7. Section 640.21 is amended by revising paragraphs (a) and (c) and adding a new paragraph (d), to read as follows:

§ 640.21 Harvest limitations

(a) *Berried lobsters.* All berried (egg-bearing) spiny lobsters and slipper (Spanish) lobsters must be returned immediately to the water unharmed. If found in a trap, a berried lobster may not be retained in the trap. Berried lobsters may not be stripped of their eggs or otherwise molested.

* * * * *

(c) *Recreational catch.* (1) During the regular fishing season described in § 640.20(a), the catch and possession is limited to six lobster person per day.

(2) During the special non-trap recreational season described in § 640.20(b), the catch and possession is limited to six lobsters per person per day.

(d) *Tail separation.* The separation of a spiny lobster's carapace and tail and the possession of separated spiny lobster tails its permitted in the EEZ only if the vessel has been issued a tail separation permit under paragraph § 640.4(c).

8. Section 640.22 is revised, to read as follows:

§ 640.22 Size limitations.

(a) *Carapace length.* Except as provided in paragraph (b) of this section, any spiny lobster (*Panulirus argus*) with a carapace lenth of 3.0 inches of less, or, if the carapace and tail are to be separated as provided in § 640.21(d), with a tail length of less than 5.5 inches, must be returned immediately to the water unharmed.

(b) *Attractants.* Live lobsters under the minium size may be held in a shaded live box aboard a vessel for use as attractants in traps. No more than one hundred undersized lobsters may be carried on board for use as attractants. The live box must provide a minimum of 3/4 gallons of aerated circulating sea water per spiny lobster held as an attractant.

§§ 640.3 640.6, 640.7, 640.20, 640.23 [Amended]

9. In addition to the amendments set forth above, the initials "FCZ" are removed and the initials "EEZ" are added in their place in the following places:

§ 640.3(a);
§ 640.6(g), (h), and (i);
§ 640.7(a)(5) and (a)(18);
§ 640.20(c); and
§ 640.23(b)(1).

[FR Doc. 87-5757 Filed 3-13-87; 12:14 PM

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 52
Wednesday, March 18, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Monday, March 23, 1987. The meeting will be held on March 23 at the Old Post Office Building, 1100 Pennsylvania Ave., NW., Room M09, Washington, DC.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. section 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, and Transportation; the Director, Office of Administration; the Chairman of the National Trust for Historic Preservation; the Chairman of the National Conference of State Historic Preservation Officers; a Governor, a Mayor; and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

I. Chairman's Report.
II. Task Force Reports.
III. Cooperative Activities with National Park Service.
IV. Executive Director's Report.
V. Legislation.
VI. Future Directions.
VII. New Business.
VIII. Adjourn.

DATE: The meeting will begin at 9:00 a.m., Monday, March 23, 1987.

Note: The meetings of the Council are open to the public.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Acting Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: March 13, 1987.

John M. Fowler,
Acting Executive Director.

[FR Doc. 87-5817 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by the Office of Management and Budget

March 13, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin., Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Research Service
Biological Shipment Record—Beneficial organisms
AD-941, 942, 943
On occasion
State or local governments; Businesses or other for-profit; Federal agencies or employees; 800 responses; 200 hours; not applicable under 3504(h).
Jack R. Coulson (301) 344-1748

• Farmers Home Administration
7 CFR 1965-B, Security Servicing for Multiple Housing Loans
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 3,220 responses; 2,007 hours; not applicable under 3504(h)
Jack Holston (202) 382-9735

• Forest Service
Financial Statement
FS-6500-24
On occasion
Businesses or other for-profit, Small business or organizations; 1,000 responses; 1,500 hours; not applicable under 3504(h)
Robert E. Riston (703) 235-3360

• Office of Personnel
Advisory Committee Membership Background Information
AD-755
Annually
Individuals or households; 500 responses; 250 hours; not applicable under 3504(h)
Carolyn T. Wright (202) 447-3083

• Rural Electrification Administration
Inventory of Work Orders
REA 219
On Occasion
Small businesses or organizations; 8,100 responses; 12,150 hours; not applicable under 3504(h)
William E. Davis (202) 382-9450

• Rural Electrification Administration
Personal Experience Record of Applicant for Position as Manager
REA 328
On occasion
Individuals or households; Small businesses or organizations; 100

responses; 75 hours; not applicable under 3504(h)
Archie W. Cain (202) 382-1900

Revision

- Animal and Plant Health Inspection Service

Permit for Movement of Restricted Animals
On occasion
Farms; 53,176 responses; 2,913 hours; not applicable under 3504(h)
Dr. William E. Ketter (301) 436-8565

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 87-5827 Filed 3-17-87; 8:45 am]

BILLING CODE 3410-01-M

National Commission on Dairy Policy; Advisory Committee; Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting.

Name: National Commission on Dairy Policy.

Time and Date: 9:00 a.m., April 6, 1987 and 8:00 a.m., April 7, 1987.

Place: Hudson House Inn, Hudson, Wisconsin 54016.

Status: Open.

Matters To Be Considered: On April 6, the Commission will hold a public hearing to receive testimony on the dairy price support program, new dairy technologies, and the influence of the program and technologies on the family farm. The meeting on April 7 is expected to review the public hearing, discuss Commission matters with the Executive Director, and discuss background materials related to the dairy industry.

Written Statments May Be Filed Before or After the Meeing With: Contact person named below.

Contact Person for More Information: Dr. David Dyer, Executive Director, National Commission on Dairy Policy, 1401 New York Ave., NW., Suite 1100, Washington, DC 20005. (202) 638-6222.

Signed at Washington, DC, this 10th day of March 1987.

David R. Dyer,
Executive Director, National Commission on Dairy Policy.

[FR Doc. 87-5758 Filed 3-17-87; 8:45 am]

BILLING CODE 3410-05-M

Packers and Stockyards Administration

Amendment To Certification of Central Filing System; Utah

The certification of the Statewide central filing system of Utah is hereby amended at the request of L. D. Muir, Director, Division of Corporations and Commercial Code, Utah Department of Business Regulation, to cover all farm products produced in the State of Utah.

The central filing system was previously certified, pursuant to section 1324 of the Food Security Act of 1985, for specified farm products produced in that State (51 FR 37769, October 24, 1986).

This amendment is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: March 13, 1987.

B.H. (Bill) Jones,
Administrator, Packers and Stockyards Administration.

[FR Doc. 87-5785 Filed 3-17-87; 8:45 am]

BILLING CODE 3410-KD-M

Soil Conservation Service

RC&D Critical Area Treatment, Colleton County, SC; Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Critical Area Treatment at the Walterboro High School and the Old Colleton County Landfill, Colleton County, South Carolina.

FOR FURTHER INFORMATION, CONTACT: Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, Telephone (803) 765-5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the measures will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for these measures.

The measures concern a plan for Critical Area Treatment. The planned works of improvement include technical and financial assistance to smooth gullies and establish grass on about 6 acres in the school yard and 25 acres in the abandoned landfill.

The Notice of a Finding of No Significant Impact (FONSI) has been prepared. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: March 6, 1987.

Niles T. Glasgow,
Deputy State Conservationist.

[FR Doc. 87-5760 Filed 3-17-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-604]

Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Certain Fresh Cut Flowers from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: As a result of the United States International Trade Commission's recent negative injury determination on miniature (spray) carnations from Canada and the United States Court of International Trade's decision in *Badger-Powhatan* v. *United States*, Slip Op. 86-38 (April 2, 1986) the Department of Commerce (the Department) is amending its final determination in this investigation and is directing the U.S. Customs Service to adjust the cash deposit for all producers/exporters of certain fresh cut flowers from 6.80 percent to 7.76 percent based on margins found for standard carnations.

EFFECTIVE DATE: March 18, 1987.

FOR FURTHER INFORMATION CONTACT: Jess Bratton or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street

and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3963 or (202) 377-3965.

SUPPLEMENTARY INFORMATION: On January 20, 1987, we published a final determination of sales at less than fair value for a class or kind of fresh cut flowers from Canada consisting of miniature (spray) carnations, as currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, as currently provided for in item 192.21 of the TSUS (52 FR 2126). We found that the overall weighted average dumping margin on all sales compared was 6.80 percent.

On March 5, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the United States International Trade Commission (ITC) notified the Department that imports of standard carnations from Canada are materially injuring a United States industry. The ITC also notified the Department that imports of miniature (spray) carnations from Canada are not materially injuring a United States industry. We are excluding those products for which the ITC made a negative determination from the scope of our order. Furthermore, under *Badger-Powhatan*, we are required, where the information is available, to recalculate the weighted average dumping margin for the remaining products—the products for which the ITC made affirmative determinations—by excluding the portion of the margin attributable to the products for which the ITC made a negative injury determination. Accordingly, we found the weighted average dumping margin for the products remaining in the scope of this investigation to be 7.76 percent.

Suspension of Liquidation

In accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of standard carnations. These antidumping duties will be assessed on all unliquidated entries of the product entered, or withdrawn from warehouse, for consumption on or after November 3, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register** (51 FR 39884).

On or after the date of publication of this notice, United States Customs officers must require, at the same time the importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted average antidumping duty margin as noted below.

	Weighted average margin (percent)
All manufacturers/producers/exporters	7.76

In accordance with section 735(c)(2)(A) of the Act, we are directing the United States Customs Service to terminate the suspension of liquidation of all entries of miniature (spray) carnations from Canada that were entered, or withdrawn from warehouse, for consumption, on or after November 3, 1986. Accordingly, all bonds should be canceled and estimated duties deposited on miniature (spray) carnations should be refunded.

This determination constitutes an antidumping duty order with respect to certain fresh cut flowers from Canada, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

March 12, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 87-5832 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-301-602]

Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Certain Fresh Cut Flowers From Colombia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: As a result of the United States International Trade Commission's recent negative injury determination on alstroemeria, gerbera and gypsophila and the United States Court of International Trade's decision in *Badger-Powhatan v. United States*, Slip Op. 86-38 (April 2, 1986) the Department of Commerce (the Department) is amending its final determination in this investigation and is directing the U.S. Customs Service to adjust the cash deposit for imports of standard carnations, miniature (spray) carnations, standard chrysanthemums and pompon chrysanthemums from all producers and exporters as reflected hereafter.

EFFECTIVE DATE: March 18, 1987.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3530 or (202) 377-3965.

SUPPLEMENTARY INFORMATION: On March 5, 1987, we published a final determination of sales at less than fair value for a class or kind of fresh cut flowers from Colombia consisting of miniature (spray) carnations, as currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, standard chrysanthemums, pompon chrysanthemums, as currently provided for in item 192.21 of the TSUS, and alstroemeria, gerbera and gypsophila, as currently provided for in TSUS item numbers 192.2190 and 192.2192 (52 FR 6842). We found that the overall weighted average dumping margin on all sales compared was 3.53 percent.

On March 5, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the United States International Trade Commission (ITC) notified the Department that imports of standard carnations, standard chrysanthemums and pompon chrysanthemums are materially injuring a United States industry and that miniature carnations threaten material injury to a United States industry. The ITC also notified the Department that imports of alstroemeria, gerbera and gypsophila are not materially injuring a United States industry. We are excluding those products for which the ITC made negative determinations from the scope of our order. Furthermore, under *Badger-Powhatan*, we are required, where the information is available, to recalculate the weighted average dumping margin for the remaining products—the products for which the ITC made affirmative determinations by excluding the portion of the margin attributable to the products for which the ITC made negative injury determinations. We have

also corrected certain clerical errors that we found in our final determination. Accordingly, we find the weighted average dumping margin for the products remaining in the scope of this investigation to be 4.40 percent.

Suspension of Liquidation

In accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of standard carnations, miniature carnations, standard chrysanthemums and pompon chrysanthemums, except as noted below. Flores Timana and Flores Esmeralda are not included in this order because no sales at less than fair value were found for these companies. Inversiones Almer and Flores de Cota also are not included in this order because they did not sell any of the flowers now under consideration.

These antidumping duties will be assessed on all unliquidated entries of standard carnations, standard chrysanthemums and pompon chrysanthemums entered, or withdrawn from warehouse, for consumption on or after November 3, 1986, the date on which the Department published its "Preliminary Determination" notice in the *Federal Register* (51 FR 39890).

As a result of the decision by the ITC that importation of miniature carnations from Colombia only constituted a threat of material injury to the domestic injury, the Department is required by section 736(b)(2) of the Act to order the release of any bond or other security and refund any cash deposit made to secure the payment of antidumping duties with respect to miniature carnations entered or withdrawn from warehouse for consumption between November 3, 1986 and the date the ITC publishes its final determination. Antidumping duties on miniature carnations will be assessed on all unliquidated entries entered or withdrawn from warehouse, for consumption on or after the date on which the ITC publishes its final determination.

On and after the date of publication of this notice, United States Customs officers must require, at the same time the importers would normally deposit estimated duties on this merhandise, a cash deposit equal to the estimated weighted averaged antidumping duty margin as noted below.

Manufacturers/producers/exporters	Weighted average margin (percent)
Floramerica	0.57
Cultivos del Caribe	0.57
Jardines de Colombia	0.57
Flores La Pampa	33.89
Flores Del Rio	3.26
Royal Carnations	83.14
Flores Generales	9.20
Universal de Flores	83.14
Prismaflor	83.14
Productura el Rosal	83.14
Inversiones Paxti	83.14
All others	4.40

In accordance with section 735(c)(2)(A) of the Act, we are directing the United States Customs Service to terminate the suspension of liquidation of all entries of alstroemeria, gerbera, and gypsophila from Colombia that were entered, or withdrawn from warehouse, for consumption, on or after November 3, 1986. Accordingly, all bonds and estimated duties deposited on these flowers should be refunded.

This determination constitutes an antidumping duty order with respect to certain fresh cut flowers from Colombia, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings currently in effect. Instead, interested parties may contact the Central Records Unit, room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 12, 1987.

[FR Doc. 87-5833 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-223-602]

Amendment To Final Determination of Sales at Less Than Fair Value; Certain Fresh Cut Flowers From Costa Rica

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: As a result of the United States International Trade Commission's recent final negative injury determination on miniature (spray) carnations and the United States Court of International Trade's decision in *Badger-Powhatan* v. *United States,* Slip Op. 86-38 (April 2, 1986) the Department of Commerce (the Department) is amending its final determination in this investigation by changing the weighted average margin to 0.04 percent for standard carnations and pompon chrysanthemums. That dumping margin is *de minimis.* Therefore, the Department determines that certain fresh cut flowers from Costa Rica are not being sold at less than fair value.

EFFECTIVE DATE: March 18, 1987.

FOR FURTHER INFORMATION CONTACT: William E. Perry or John Brinkmann, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 21230; telephone (202) 377-0160 or (202) 377-3965.

SUPPLEMENTARY INFORMATION: On March 5, 1987, we published a final determination of sales at less than fair value for a class or kind of fresh cut flowers from Costa Rica consisting of miniature (spray) carnations, as currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, and pompon chrysanthemums, as currently provided for in item 192.21 of the TSUS (52 FR 6852). We found that the overall weighted average dumping margin of all sales compared was 0.74 percent.

On March 5, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the United States International Trade Commission (ITC) notified the Department that imports of standard carnations and pompon chrysanthemums are materially injuring a United States industry. The ITC also notified the Department that imports of miniature carnations are not materially injuring, or threatening material injury to, a United States industry. Accordingly, we are excluding miniature carnations from the scope of our order because of the ITC negative determination. Furthermore, under *Badger-Powhatan,* we are required, where the information is available, to recalculate the weighted average average dumping margin for the products for which the ITC made affirmative determinations—in this case the standard carnations and pompon chrysanthemums—by excluding the portion of the margin attributable to miniature carnations. Accordingly, we found the weighted average dumping margin for the standard carnations and pompon chrysanthemums to be 0.04 percent, which is *de mimimis.* The Department, therefore, determines that

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certain fresh cut flowers from Costa Rica are not being sold at less than fair value.

Termination of Suspension of Liquidation

In accordance with section 735(c)(2)(A) of the Act, we are directing the United States Customs Service to terminate the suspension of liquidation of all entries of certain fresh cut flowers from Costa Rica that were entered, or withdrawn from warehouse, for consumption, on or after October 28, 1986. Accordingly, all bonds should be cancelled and estimated antidumping duties deposited should be refunded.

This notice is published in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Import Administration.

March 12, 1987.

[FR Doc. 87-5834 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-331-602]

Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Certain Fresh Cut Flowers From Ecuador

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: As a result of the United States International Trade Commission's recent negative injury determination on imports of miniature carnations from Ecuador and the United States Court of International Trade's decision in *Badger-Powhatan* v. *United States*, Slip Op. 86-38 (April 2, 1986) the Department of Commerce (the Department) reexamined its final margin calculations in this investigation and excluded miniature (spray) carnations from the scope of the order. The Department further determines that the Commission's negative determination on miniature carnations does not affect the final margin calculations for the other flowers subject to investigation.

EFFECTIVE DATE: March 18, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 377-1756 or (202) 377-3965.

SUPPLEMENTARY INFORMATION: On January 20, 1987, we published a final determination of sales at less than fair value for a class or kind of cut flowers from Ecuador consisting of miniature (spary) carnations, as currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, standard chrysanthemums, and pompon chrysanthemums, as currently provided for in item 192.21 of the TSUS (52 FR 2128). We found that the overall weighted average dumping margin on all sales compared was 5.89 percent.

On March 5, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the United States International Trade Commission (ITC) notified the Department that imports of standard carnations, standard chrysanthemums, and pompon chrysanthemums are materially injuring a United States industry. The ITC also notified the Dpartment that imports of miniature (spary) carnations are not materially injuring a United States industry. We are excluding those products for which the ITC made a negatives determination from the scope of our order. Furthermore, under *Badger-Powhatan*, we are required, where the information is available, to recalculate the weighted-average dumping margin for the remaining products—the products for which the ITC made affirmative determinations—by excluding the portion of the margin attributable to the products for which the ITC made negative injury determinations. Only one company, Eden Flowers, exported miniature carnations to the United States. The dumping margin for that company was calculated by using the best information available, which was available only for standard carnations. Since the Department did not use any information for miniature carnations in this case, the Commission's negative determination does not affect the final margin calculations.

Suspension of Liquidation

In accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of standard carnations, standard chrysanthemums, and pompon chrysanthemums. These antidumping duties will be assessed on all unliquidated entries of the product entered, or withdrawn from warehouse, for consumption on or after November 3, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register** (51 FR 39892).

On and after the date of publication of this notice, United States Customs officers must require, at the same time the importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted averaged antidumping duty margins as noted below.

Manufacturers/sellers/exporters	Weighted average margin percentage
Florisol	9.37
Inverflora	2.56
Terraflor	2.56
Eden Flowers	19.00
All others	5.89

In accordance with section 735(c)(2)(A) of the Act, we are directing the United States Customs Service to terminate the suspension of liquidation of all entries of miniature (spray) carnations from Ecuador that were entered, or withdrawn from warehouse, for consumption, on or after November 3, 1986. Accordingly, all bonds should be cancelled and estimated duties deposited on miniature (spray) carnations should be refunded.

This determination constitutes an antidumping duty order with respect to certain fresh cut flowers from Ecuador, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Paul Freedenberg,

Assistant Secretary for Import Administration.

March 12, 1987.

[FR Doc. 87-5835 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; Woods Hole Oceanographic Institution et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub.

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L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 87-108. Applicant: Woods Hole Oceanographic Institution, Department of Chemistry, Woods Hole, MA 02543. Instrument: Automated Langmuir-Blodgett Film Appartatus, Model KSV 2200. Manufacturer: KSV Chemicals Oy, Finland. Intended Use: The instrument is intended to be used for studies of naturally-occurring organic films formed on the surface of the sea. The properties of these materials include a wide range of physiochemical parameters relating to surface-activity, including surface pressure-area relationships, surface tension, compressibility coefficients, aggregation concentrations, collapse pressures, molecular weight, molecular size, molecular orientation and packing factors and two-dimensional equation of state coefficients. In addition, the propensity of these materials to form coherent, ordered films on solid substrates and the chemical composition of these coated films will be investigated. Application received by Commissioner of Customs: February 1987.

Docket Number: 87-109. Applicant: University of Nevada School of Medicine, Electron Microscope Facility, Reno, NV 89557-0046. Instrument: Electron Microscope, Model CM 10 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended Use: The instrument will be used to conduct various research projects which include but are not limited to the following:

(1) Cryptococcal polysaccharide: Inhibition of phagocytosis,

(2) Mechanisms of alpha-adrenoreceptors on cardiac myocytes,

(3) Proteinases and the lethal mechanism of human natural killer cells,

(4) Regulation of gastrointestinal muscles by prostaglandins,

(5) Effects of ethyl alcohol on gastric muscle.

(6) Regulation of propagation of GI muscles,

(7) Hypothalmic control over gastric motor neurons,

(8) Herpesvirus induced malignancy,

(9) Effects of ethanol on the acyly-CoA.

Application received by Commissioner of Customs: February 25, 1987.

Docket Number: 87-110. Applicant: University of Miami, Coral Gables, FL 33124. Instrument: Stopped-Flow Spectrophotometer, Model SC-51 with Accessories. Manufacturer: Hi-Tech Scientific Instrument Division, United Kingdom. Intended Use: The instrument is intended to be used for studies of coordination compounds of transition metal cations. Fast reactions of these compounds in solution will be studied, primarily oxidation-reduction processes and any associated substitution and/or rearrangement reactions which many precede or follow the redox reactions. Application Received by Commissioner of Customs: February 27, 1987.

Docket Number: 87-111. Applicant: University of Houston, 4800 Calhoun, Houston, TX 77004. Instrument: Mass Spectrometer System, Model 70SQ/11-250J. Manufacturer: VG Instruments Inc., United Kingdom. Intended Use: The instrument is intended to be used for research addressing the critical need of continued improvements in analytical instrumentation particularly in regard to mass spectrometry and liquid chromatography with special emphasis on their applications to the solution of molecular level problems in the life sciences. The instrument will also be used for training graduate students and post-doctoral fellows. Application received by Commissioner of Customs: February 26, 1987.

Docket Number: 87-112. Applicant: University of Texas Health Science Center at Houston, Speech and Hearing Building, 1343 Moursund, Houston, TX 77030. Instrument: Electron Microscope, Model CM 12/STEM with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended Use: The instrument will be used for research studies of tissue samples, cultured cells and biological materials to determine morphological and biological interrelations. Experiments will involve investigation of cellular response mechanism using both morphological determinants and probing techniques, immunolabelling and autoradiography. Application Received by Commissioner of Customs: February 27, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-5836 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Docket No. 70353-7053]

Information Relating to Bowhead Whales; U.S. Implementation of Bowhead Whale Strike Quota for 1987

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

ACTION: Notice of information.

SUMMARY: Information is published by NOAA for use in the development of the U.S. position before the International Whaling Commission (IWC) on the aboriginal/subsistance take of bowhead whales and in the domestic allocation of the existing IWC quota for bowhead whales to U.S. natives. By this notice, NOAA is advising the public of the domestic implementation of the IWC bowhead whale catch limit in 1987.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, (202) 673-5281.

SUPPLEMENTARY INFORMATION: NOAA is responsible for implementation and enforcement of the Marine Mammal Protection Act (16 U.S.C. 1361-1407), the Endangered Species Act (16 U.S.C. 1531-1543) and the Whaling Convention Act (16 U.S.C. 916-916*l*). In addition, it provides staff support to the U.S. Commissioner to the IWC and to the IWC Interagency Committee. Consistent with these responsibilities, the Agency develops positions for implementation of the aboriginal/subsistence harvest of bowhead whales under Paragraph 13 of the Schedule to the International Convention on the Regulation of Whaling, December 2, 1946, 62 Stat. 1716, T.I.A.S. no. 1849 (entered into force, November 10, 1948). In order to provide for public review of the data upon which the U.S. positions are based, the following information is provided: (1) The IWC catch level available for the U.S. aboriginal/subsistence bowhead whale harvest from 1985-1987; (2) a summary of available bowhead scientific information including estimates of current population level and annual recruitment rates; (3) a summary of information on the nature and extent of aboriginal/subsistence need; (4) the aboriginal/subsistence harvest limit which will be implemented domestically; and (5) notice of the availability of those documents reviewed by NOAA and relied on by the Administrator of NOAA in making his findings on the 1987 harvest limits.

1. Catch Level

At the 37th Annual Meeting of the IWC, Bournemouth, U.K., July 15-19, 1985, the following catch limit was

established for aboriginal/subsistence whaling: "the taking of bowhead whales from the Bering Sea stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that: For each of the years 1985, 1986, and 1987, 26[2] whales may be struck. However, strikes not used in 1 year may be transferred to the subsequent year, provided that no more than 32 whales may be struck in any 1 year." (Schedule to the Convention, Paragraph 13(b)(1).)

Footnote 2: "Each year this figure will be reviewed and if necessary amended on the basis of the advice of the Scientific Committee."

2. Scientific Information

The IWC Scientific Committee, at the 1985 IWC meeting, agreed on an estimate of 4,417 for the current population size for bowhead whales with a 95 percent confidence interval of 2,613 to 6,221. Based on analyses by NMES scientists, two estimates of annual net recruitment within ranges, .011–.0165 and .014–.024, neither of which takes into account hunt removals, are given, with the latter considered to be superior. Applying these two range estimates to the current point estimate of 4,417, we derive two estimates of actual recruits into the population before hunt removals: 49–73 and 62–106. Applying the 95 percent confidence ineterval for the same recruitment yields estimates of recruits of 29–43 and 87–149, before hunt removals. The current estimate of the number of bowhead whale recruits entering the population annually is 49–106 animals, with a 95 percent confidence interval of 29–149.

3. Aboriginal/Subsistence Need

The Department of the Interior (DOI) conducted the last major analysis of the nature and exent of aboriginal/subsistence need for bowhead whales and whaling in 1983. This analysis provided the basis for the U.S. submissions to the IWC concerning aboriginal/subsistence need in 1983 and 1984. In 1986 DOI advised the U.S. Commissioner that there had been no change in circumstances to change the assessment since 1984. The conclusions drawn by DOI are as follows:

(1) Need based on historical catch per crew, 1986–1983 = 26 landed whales;

(2) Village need based on per capita returns = 24 landed whales; and

(3) need based on participation = 26 landed whales.

The DOI conclusion was that the Alaskan Eskimos' need would be satisfied by 26 landed whales, and, using the best estimate then available of hunting efficiency, 52 strikes. Given the Alaska Eskimo Whaling Commission (AEWC) commitment to improve hunting efficiency, the final assessment by DOI was that the Alaskan Eskimos' need could be met with 35 strikes to land 26 whales.

4. Domestic Harvest Range

The IWC management scheme for aboriginal/subsistence whaling provides in (Schedule paragraph 13(a)(2)): "For stocks below the maximum sustainable yield (MSY) level but above a certain minimum level, aboriginal/subsistence catches shall be permitted so long as they are set at levels which allow whales stocks to move to the MSY level." Given the above stated estimates of 49–106 whales recruited into the population annually, the aboriginal/subsistence catch can be permitted so long as it is set at a level that allows the whale stock to move to the MSY level.

The catch limit for bowhead whales for 1985–1987 was established by the IWC as 26 strikes in any one year; however, strikes not used in any one year may be transferred to the subsequent year, provided that no more than 32 strikes are used each year. As a result, the range of the possible strike quota for 1987 is 26 to 32. Because the United States believes that the Alaskan Eskimos require 35 strikes to satisfy their subsistence needs, NOAA recommends that 32 strikes be allocated to the AEWC for 1987.

5. Documents Reviewed

A list of the documents reviewed for this action may be obtained on request from the address above. The documents are available for public inspection during the 30-day public comment period at the same address.

Dated: March 12, 1987.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 87–5791 Filed 3–13–87; 12:49 pm]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

March 12, 1987.

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 March 18, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Report which are posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, please call (202) 377–3715. For information on categories on which consultations have been requested call (202) 377–3740.

Background

On February 23, 1987, a notice was published in the **Federal Register** (51 FR 5479), which established import restraint limits for cotton dish towels in Category 369–D (only TSUSA numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860) and man-made acrylic spun yarn in Category 604–A+w (only TSUSA numbers 310.5049 and 310.6045), produced or manufactured in China and exported to the United States during the ninety-day period which began on November 25, 1986 and extended through February 22, 1987. The notice also stated that the Government of the People's Republic of China is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, if no mutually satisfactory solution is reached on levels for these categories during consultations, to limit its imports during the twelve-month period immediately following the ninety-day period to 7,543,914 pounds (Category 369–D) and 260,546 pounds (Category 604–A+W).

No solution has been reached in consultations on mutually satisfactory limits for these categories. The United States Government had decided, therefore, to control imports of cotton dish towels in Catetory 369–D and made-made fiber acrylic spun yarn in Catetory 604–A+W exported during the twelve-month period which began on February 23, 1987 and extends through February 22, 1988, at the levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limits established for the ninety-day period have been exceeded, such excess amounts, if allowed to enter, will be charged to the levels established for the designated twelve-month period.

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), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annoted (1987)*.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 12, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 18, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 369-D [1] and 604-A+W,[2] produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on February 23, 1987 and extends through February 22, 1988, in excess of the following levels of restraint: [3]

Category	12-mo. restraint level
369-D	7,543,914
604-A+W	260,546

Textile products in Categories 369-D and 604-A+W which are in excess of the ninety-day levels previously established shall be subject to this directive.

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), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated* (1987).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-5754 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Consultations With the Government of Costa Rica on Category 340/640

March 12, 1987.

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 March 18, 1987. For further information contact Kathryn Cabral, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715. For information on categories on which consultations have been requested call (202) 377-3740.

Background

On February 2, 1987, the Government of the United States requested consultations with the Government of Costa Rica with respect to cotton and man-made fiber textile products in Category 340/640 (men's woven shirts). This request was made on the basis of the agreement between the Governments of the United States and Costa Rica of February 7 and 8, 1984 relating to trade in cotton, wool and man-made fiber textile products. The agreement provides for consultations when imports, due to market disruption, or the threat thereof, threaten to impede the orderly development of trade between the two countries.

A summary market statement for this category follows this notice.

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), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated* (1987).

Anyone wishing to comment or provide data or information regarding the treatment of Category 340/640 under the agreement with the Government of Costa Rica, or in any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Ronald I. Levin, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon request.

Further comment may be invited regarding particular comments of information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) (relating to matters which constitute "a foreign affairs function of the United States."

The Government of the United States had decided, pending a mutually satisfactory solution, to control imports in Category 340/640 exported during the ninety-day consultation period which

[1] In Category 369, only TSUSA numbers 365.8615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860.

[2] In Category 604, only TSUSA numbers 310.5049 and 310.6045.

[3] The levels have not been adjusted to account for any imports exported after February 22, 1987.

began on February 2, 1987 and extends through May 2, 1987, at the prescribed limit of 142,989 dozen.

According to the terms of the bilateral agreement, if no mutually satisfactory solution is reached during consultations, the United States may establish a prorated specific limit for the period following the ninety-day consultation period (May 3, 1987-December 31, 1987) of 326,385 dozen.

In the event the limit established for the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the limit established during the subsequent restraint period.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Costa Rica, further notice will be published in the **Federal Register.**

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Costa Rica—Market Statement

Category 340/640—Men's and Boys' Cotton and Man-Made Fiber Woven Shirts

January 1987.

Summary and Conclusions

U.S. imports of Category 340/640 from Costa Rica were 408,541 dozen during the year ending November 1986, two and one-half times the 157,282 dozen imported a year earlier. During the first eleven months of 1986, imports from Costa Rica were 390,069 dozen, nearly three times the amount imported during the same period of 1985 and two and one-half times the amount imported during calendar year 1985.

The U.S. market for Category 340/640 has been disrupted by imports. The sharp and substantial increase of imports from Costa Rica has contributed to this disruption.

U.S. Production and Market Share

U.S. production of men's and boys' cotton and man-made fiber woven shirts has been on the decline since 1972. U.S. production declined from 29.9 million dozen in 1972 to 23.8 million dozen in 1977 to 16 million dozen in 1982. Production dropped to 15.8 million dozen in 1985. Comparison of government cuttings [1] data for the first eleven months of 1986 and 1985 indicate that 1986 production will be down slightly, flat at best. The domestic producers' share of this market declined from 73 percent in 1972 to 45 percent in 1982 to 38 percent in 1985. The U.S. market share is expected to remain flat, around 38 percent, in 1986.

[1] Cuttings data are for cotton, wool, and man-made fiber men's woven shirts

U.S. Imports and Import Penetration

Category 340/640 imports have been on the increase since 1972. U.S. imports increased from 11 million dozen in 1972 to 11.8 million dozen in 1977 to 19.5 million dozen in 1982. Imports reached a record level 26.1 million dozen in 1985. Imports through the first 11 months of 1986 are 23.5 million dozen indicating a 1986 level below the 1985 level but the second highest level on record. The import-to-production ratio increased from 37 percent in 1972 to 122 percent in 1982 to 166 percent in 1985. The ratio is expected to remain above 160 in 1986.

Duty Paid Value and U.S. Producers' Price

Approximately 70 percent of Category 340/640 imports from Costa Rica during the first eleven months of 1986 entered under two TSUSA numbers: 381.5620—men's cotton woven dress shirts, except yarn dyed, not ornamented; and 381.5650 men's cotton woven sport shirts, except yarn dyed and corduroy, not ornamented. These shirts entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable garments.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

March 12, 1987.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 7 and 8, 1984 between the Governments of the United States and Costa Rica; and in acordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 18, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Category 340/640, produced or manufactured in Costa Rica and exported during the ninety-day consultation period which began on February 2, 1987 and extends through May 2, 1987, in excess of 142,989 dozen.[1]

[1] The limit has not been adjusted to account for any imports exported after February 1, 1987

Textile products in Category 340/640 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.

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), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-5755 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Consultations With the Government of the Socialist Republic of Romania on Category 833

March 12, 1987.

On February 27, 1987, the Government of the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles and in accordance with section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of the Socialist Republic of Romania to enter into consultations concerning exports to the United States of certain silk blend and other vegetable fiber textile products in Category 833, produced or manufactured in Romania.

The purpose of this notice is to advise that if no solution is agreed upon in consultations with Romania, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of suit-type jackets made of silk blends and other vegetable fibers in Category 833, produced or manufactured in Romania and exported to the United States during the twelve-month period which began on February 27, 1987 and extends through February 26, 1988, at a level of 4,769 dozen

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on July 29, 1986 (51 FR 27068), and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated (1987).*

Anyone wishing to comment or provide data or information regarding the treatment of Category 833, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information on ten copies to Mr. Ronald I. Levin, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be availalbe for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements consider appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the Socialist Republic of Romania, further notice will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Kathryn Cabral, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested call (202) 377-3740.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Romania—Market Statement

Category 833—Silk-Blend and Other Vegetable Fiber, Men's and Boys' Suit-type Coats

February 1987.

Summary and Conclusions

U.S. imports of Category 833 from Romania were 5,220 dozen during 1986 compared to 3,974 dozen imported during 1985, and 31 percent increase. Romania is the fifth largest supplier of Category 833 accounting for nine percent of total imports during 1986.

Imports of silk-blend men's and boys' suit-type coats and men's and boys' suit-type coats of vegetable fibers other than cotton have increased dramatically in recent years. The predominate blends being imported from all sources are ramie/cotton blends and linen blended with various fibers i.e. silk, ramie and acrylic. In some cases three fibers are blended. Also, a number of silk-blend men's and boys' suit-type coats are being imported. Most of the Category 833 imports from Romania are linen-blend suit-type coats.

Imports of silk-blend and other vegetable fiber men's and boys' suit-type coats compete with domestically produced cotton, wool, and man-made fiber men's and boys' suit-type coats. The U.S. market for cotton, wool, and man-made fiber men's and boys' suit-type coats, Category 333/433/633, has been disrupted by imports. The sharp and substantial increase of Category 833 imports from Romania is contributing to the disruption of this market.

Import Penetration and Market Share

The ratio of imports to production in Category 333/433/633, cotton, wool and man-made fiber men's and boys' suit-type coats, increased to 49 percent in 1985. The share of this market held by domestic manufacturers' dropped to 67 percent in 1985. Imports of Category 833 are contributing to this market disruption.

U.S. imports of Category 833 were 55 thousand dozen in 1985 and increased to 57 thousand dozen in 1986.

Production data for 1986 are not currently available; however, government cuttings data are reported. Cuttings[1] data for 1986 indicate that production is flat when compared to the 1985 level. If production is assumed to remain at its 1985 level and 1986 imports of Category 333/433/633/833 are compared, the import to production ratio for men's and boys' suit-type coats increases to 55 percent in 1986 and the domestic manufacturers' share of this market falls to 65 percent.

Duty-Paid Value and U.S. Producer Price

Approximately 98 percent of Category 833 imports from Romania during 1986 entered under TSUSA number 381.6987—men's and boys' suit-type coats, of vegetable fiber other than cotton, not knit, not ornamented. These suit type coats entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable suit-type coats.

[1] U.S. cuttings data are for men's cotton, wool and man-made fiber dress and sport coats and include both woven and knit coats.

[FR Doc. 87-5756 Filed 3-17-87; 8:45 am]

BILLING CODE 3510-DR-M

Rescinding the Call on Certain Cotton Textile Products in Category 341 Produced or Manufactured in Brazil

March 13, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 31, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on March 13, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC, (202) 377-4212.

Background

On March 19, 1986, a notice was published in the **Federal Register** (51 FR 9503) announcing that the Government of the United States had requested the Government of the Federative Republic of Brazil to enter into consultations concerning exports to the United States of woven cotton blouses and shirts in Category 341, produced or manufactured in Brazil. A subsequent notice was published on August 13, 1986 (51 FR 28969) which established a prorated specific limit for the period which began on May 29, 1986 and extends through March 31, 1987.

The purpose of this notice is to announce that, pursuant to consultations with the Government of Brazil, the United States Government has agreed to withdraw the limit on this category. This category remains subject to the aggregate limit. Should it become necessary to discuss this category with the Government of Brazil at a later date, further notice will be published in the **Federal Register.** In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to cancel the import control limit previously established for this category.

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.

March 13, 1987.

Dear Mr. Commissioner: This directive cancels the directive of August 8, 1986 which established a prorated specific limit on cotton textile products in Category 341, produced or manufactured in Brazil and exported during the prorated period which began on May 29, 1986 and extends through March 31, 1987. Retain all charges made to Category 341 as this category remains subject to the group limit established in the directive of March 18, 1986 for Categories 300–369, 400–469, 600–670, for the period April 1, 1986 through March 31, 1987.

The Committee for the Implementation of Textile Agreements has determined that this action falls 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.

Effective: March 13, 1987.

[FR Doc. 87–5831 Filed 3–17–87; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Information Collection.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0033, Regulation Governing Notification of Legal Proceedings, to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. The information collected pursuant to this rule is designed to assist the Commission in monitoring legal proceedings involving the responsibilities imposed on contract markets and their officials and futures commission merchants and their principals by the Commodity Exchange Act, the Commission's enabling legislation or otherwise.

ADDRESS: Persons wishing to comment on this information collection should contact Robert Neal, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the submission are available from Joseph G. Salazar, Agency Clearance Officer, (202) 254–9735.

Title: Regulation Governing Notification of Legal Proceedings
Control: Number 3038–0033
Action: Extension
Respondents: Contract Markets and their officials and Futures Commission Merchants and their principals
Estimated Annual Burden: 10 hours
Estimated Number of Respondents: 100 (1 per year by 100 respondents)

Issued in Washington, DC, on March 12, 1987.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–5776 Filed 3–17–87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force Subgroup to the Strategic Air Defense; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force Subgroup to the Strategic Air Defense will meet in closed session on April 2–3, April 16–17, April 27–28, and May 14–15, 1987 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate and make recommendations on the use of technology for the extension of the Strategic Air Defense mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

March 12, 1987.

[FR Doc. 87–5784 Filed 3–17–87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Decision to Build a Commissary at the Presidio of San Francisco, CA

Notice is hereby given, pursuant to paragraph 17 of the Stipulation for Dismissal With Prejudice in the case entitled *Sierra Club vs. Marsh,* filed with the U.S. District Court for the Northern District of California July 16, 1986, of the Army's final decision to build a new commissary facility at the Presidio of San Francisco. Advertising for bids for construction will begin in late April. Construction is expected to commence in July.

Location

The proposed commissary will be in the lower post area of the Presidio of San Francisco, between highway 101, commonly known as Doyle Drive, and Old Mason Street, approximately 2000 feet west of the existing commissary.

Description

The project will provide a safe and efficient facility to replace the existing, sub-standard, four-structure facility. The new facility will consist of 87,309 square feet of new, one-story construction and an existing 5,931 square foot existing structure, totaling 93,240 square feet. The new structure will have a roof peak 39 feet above the existing grade. 320 customer parking spaces and 27 employee parking spaces will be provided on the north and east sides of the facility, and truck unloading will be provided on the west side. Tree and shrub plantings will be used to screen the parking areas and structure from the adjacent Golden Gate National Recreation Area lands.

Two of the four existing commissary buildings (251 and 252) are scheduled for demolition upon completion of the new commissary. The remaining two buildings (1186 and 1187) are historic structures. They will be demolished upon compliance with the National Historic Preservation Act, as required by paragraph of the above-cited Stipulation for Dismissal With Prejudice.

The project was documented and evaluated in a Draft Environmental Assessment (EA) which was distributed to agencies and interested persons in October 1986. A Final EA and Finding of No Significant Impact were completed on February 26, 1987, after a public review period and public hearing.

Dated: March 5, 1987.

Joseph V. Rafferty,

Colonel, Infantry, Commanding.

[FR Doc. 87–5774 Filed 3–17–87; 8:45 am]

BILLING CODE 3710-92-M

Department of the Navy

Privacy Act of 1974; Amended Record System

AGENCY: Department of the Navy, DOD.

ACTION: Notice of an amended system of records subject to the Privacy Act for public comment.

SUMMARY: The Department of the Navy proposes to amend a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a).

DATE: The proposed action will be effective without further notice on or before April 17, 1987, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000, telephone: 202-697-1459, autovon: 227-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc. 86-8485 (51 FR 12908) April 16, 1986
FR Doc. 86-10763 (51 FR 18086) May 16, 1986 (Compilation)
FR Doc. 86-12448 (51 FR 19884) June 3, 1986
FR Doc. 86-19207 (51 FR 30377) August 26, 1986
FR Doc. 86-19208 (51 FR 30393) August 26, 1986
FR Doc. 86-28835 (51 FR 45931) December 23, 1986
FR Doc. 87-1144 (52 FR 2147) January 20, 1987
FR Doc. 87-1145 (52 FR 2149) January 20, 1987

The specific changes to the record system being amended are set forth below followed by the system notice, as amended, published in its entirety.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires the submission of an altered system report.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
March 12, 1987.

N07600-1

System name:

NIF RDT&E Standard Automated Financial System (STAFS) 51 FR 18205, May 16, 1986.

Changes:

System Name:

Delete the phrase "RDT&E".

System Location:

Delete the entire entry and substitute with: "Naval Industrial Fund (NIF): (1) Naval Air Development Center (NADC), Warminster, Pennsylvania; (2) Naval Coastal Center (NCSC), Panama City, Florida; (3) Naval Surface Weapons Center (NSWC), Dahlgren, Virginia; (4) David W. Taylor Naval Ship Research and Development Center (DTNRDC), Bethesda, Maryland; (5) Naval Ocean Systems Center (NOSC), San Diego, California; (6) Naval Underwater Systems Center (NUSC), Newport, Rhode Island; (7) Naval Weapons Center (NWC), China Lake, California; (8) Naval Air Engineering Center (NAEC), Lakehurst, New Jersey; (9) Naval Air Propulsion Center (NAPC), Trenton, New Jersey; (10) Naval Air Test Center (NATC), Patuxent River, Maryland; (11) Pacific Missile Test Center (PMTC), Pt. Mugu, California; (12) Naval Civil Engineering Laboratory (NCEL), Pt. Hueneme, California; (13) Naval Research Laboratory (NRL), Washington, DC; Naval Ship Weapon System Engineering Station, (NSWSES), Pt. Hueneme, California. Official mailing addresses are in the Navy's Address Directory in the appendix to the Navy Department's system notices appearing in the **Federal Register.**"

Categories of Individuals covered by the system:

Delete the entire entry and substitute with: "Records of present, former, and prospective civilian and military personnel assigned/employed by the activities listed above. Selected non-employees for which the host activity records travel and STAFS computer access."

Categories of records in the system:

Delete the entire entry and substitute with: "Personnel; travel; time and attendance input sent to payroll office; and work history for billing for services provided to other naval activities."

Authority for maintenance of the system:

Delete the entire entry and substitute with: "10 U.S.C. 5031."

Purpose:

Delete the entire entry and substitute with: "To collect data for labor costing, customer billing; reimbursement of travelers for travel expenses; maintaining a historic file and audit trail for payments made by the Navy; responding to inquiries from travelers on status of claims; controlling travel allowances and pay; recording and accounting for Government expenditures for personnel services of Navy employees; and maintaining time and attendance information."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Delete the phrase: "File folders."

Retrievability:

Delete the entire entry and substitute with: "By name, SSN, employee indentification number."

Retention and Disposal:

Delete the entire entry and substitute with: "Active employee records are retained while personnel are active. Inactive employee records are retained until all links are satisfied. When this condition occurs, the inactive employee record can be purged from the data base to magnetic tape which is stored in a secure controlled area.

N07600-1

SYSTEM NAME:

NIF Standard Automated Financial System (STAFS).

SYSTEM LOCATION:

Naval Industrial Fund (NIF): (1) Naval Air Development Center (NADC), Warminster, Pennsylvania; (2) Naval Coastal Center (NCSC), Panama City, Florida; (3) Naval Surface Weapons Center (NSWC), Dahlgren, Virginia; (4) David W. Taylor Naval Ship Research and Development Center (DTNRDC), Bethesda, Maryland; (5) Naval Ocean Systems Center (NOSC), San Diego, California; (6) Naval Underwater Systems Center (NUSC), Newport, Rhode Island; (7) Naval Weapons Center (NWC), China Lake, California; (8) Naval Air Engineering Center (NAEC), Lakehurst, New Jersey; (9) Naval Air Propulsion Center (NAPC), Trenton, New Jersey; (10) Naval Air Test Center (NATC), Patuxent River, Maryland; (11) Pacific Missile Test Center (PMTC), Pt. Mugu, California; (12) Naval Civil Engineering Laboratory (NCEL), Pt. Hueneme, California; (13) Naval Research Laboratory (NRL), Washington, DC; (14) Naval Ships Weapon System Engineering Station, (NSWSES), Pt. Hueneme, California. Official mailing addresses are in the Navy's Address Directory in the appendix to the Navy Department's system notices appearing in the **Federal Register.**

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records of present, former, and prospective civilian and military personnel assigned/employed by the activities listed above. Selected non-

employees for which the host activity records travel and STAFS computer access.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel; travel; time and attendance input sent to payroll office; and work history for billing for services provided to other naval activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5031

PURPOSE(S):

To collect data for labor costing; customer billing; reimbursement of travelers for travel expenses; maintaining a historic file and audit trail for payments made by the Navy; responding to inquiries from travelers on status of claims; controlling travel allowances and pay; recording and accounting for Government expenditures for personnel services of Navy employees; and maintaining time and attendance information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and magnetic tape.

RETRIEVABILITY:

By name, SSN, employee identification number.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined element access based on predefined need to know. Physical access to terminals, terminal rooms, buildings, and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Active employee records are retained while personnel are active. Inactive employee records are retained until all links are satisfied. When this condition occurs, the inactive employee record can be purged from the data base to magnetic tape which is stored in a secure controlled area.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of the activity. See directory of Department of the Navy mailing addresses.

NOTIFICATION PROCEDURE:

Information may be obtained from the systems manager by written request, stating full name of the individual concerned and signed by the requesting individual.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals concerned, other records of the activity concerned, other records of activity supervisors, investigators, witnesses, correspondents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 87-5783 Filed 3-17-87; 8:45 am]

BILLING CODE 3810-01-M

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, March 25, 1987 beginning at 1:30 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *North Wales Water Authority D-77-90 CP RENEWAL.* An application to renew the permitted withdrawal of ground water from existing Well No. 23 to supply water to the applicant's system. The proposed 30-day withdrawal limit remains at 3.5 million gallons (mg) from Well No. 23. The well is located in Upper Gwynedd Township, Montgomery County, in the Ground Water Protected Area of Southeastern Pennsylvania.

2. *Borough of Hatfield D-78-84 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply 5.4 mg/30 days to the Borough of Hatfield water supply from Well No. 8. The applicant requests that the total withdrawal from the well remain limited to 5.4 mg/30 days. The project is located in the Borough of Hatfield, Montgomery County, in the Southeastern Pennsylvania Ground Water Protected Area.

3. *North Wales Water Authority D-78-94 CP (Revised).* An application to renew and increase the permitted withdrawal of ground water from existing Well No. 25. The average withdrawal rate will be increased from 0.25 million gallons per day (mgd) to 0.40 mgd. This will result in an increased ground water withdrawal from the applicant's system of 4.5 mg/30 days. Well No. 25 is located 2,500 feet southeast of the intersection of Route 309 and Bethlehem Pike in Lower Gwynedd Township, Montgomery County, in the Ground Water Protected Area of Southeastern Pennsylvania.

4. *North Penn Water Authority D-80-76 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 6.6 mg/30 days of water from Well No. 48. The well has been in operation since March 1983 and the average daily pumpage in 1986 was 206,000 gallons per day (gpd). Commission approval of the docket on March 30, 1982 was limited to five years and will expire unless renewed. No change is requested in the existing withdrawal limits. The project is located in Franconia Township, Montgomery County, in the Ground Water Protected Area of Southeastern Pennsylvania.

5. *Hackettstown Municipal Utilities Authority D-81-56 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 19.5 mg/30 days of water to the applicant's distribution system from Well No. 6. Commission approval on March 30, 1982 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells and surface sources remain limited to 75 mg/30 days. The project is located in Washington Township, Morris County, New Jersey.

6. *Conshohocken Borough Authority D-86-51 CP.* An application for a wastewater treatment plant upgrading and expansion project to serve the Boroughs of Conshohocken and West Conshohocken, plus portions of Whitemarsh and Plymouth Townships, all within Montgomery County, Pennsylvania. The existing secondary

treatment plant is designed to process an average flow of 1.36 mgd. The proposed high quality secondary treatment plant is specifically designed to remove ammonia and nitrogen, and will process an average flow of 2.3 mgd. The facility is designed to serve 13,400 persons through the year 2005. The treatment plant effluent will continue to be discharged to the Schuylkill River but it will flow through a 24-inch line that parallels the existing outfall.

7. *Douglassville Water Company D-86-54 CP.* An application for approval of a ground water withdrawal project to supply up to 9.2 mg/30 days of water to the applicant's distribution system from new Well No. 6 and existing Well No. 5, and to increase the existing withdrawal limit from all wells to 22.16 mg/30 days. The project is located in Amity Township, Berks County, Pennsylvania.

8. *Sinking Springs Borough Municipal Authority D-86-64 CP.* A sewage treatment plant expansion project designed to serve an equivalent population of 5,000 persons (includes minor industrial usage) in Sinking Springs Borough and parts of Spring Township, Lower Heidelburg and South Heidelburg Townships, all within Berks County, Pennsylvania. The existing contact stabilization plant has a design average flow of 0.35 mgd. The proposed expansion will provide high quality secondary treatment of 0.5 mgd. The proposed facility is designed to serve the service area through the year 1990. The treatment plant effluent will continue to be discharged to Cacoosing Creek in Spring Township.

9. *Borough of Leesport D-86-78 CP.* An application for approval of a ground water withdrawal project to supply up to 6.0 mg/30 days of water to the applicant's distribution system from new Well No. 4, and to limit the withdrawal from all wells to 6.0 mg/30 days. The project is located in Leesport Borough, Berks County, Pennsylvania.

10. *Borough of East Stroudsburg D-87-15 CP.* An application to expand a sewage treatment plant located just off Pennsylvania State highway 611 in East Stroudsburg, Monroe County. The existing 1.3 mgd plant will be expanded to process a design average flow of 2.25 mgd. The proposed facility is designed to provide secondary treatment of flow from domestic and industrial sources through the year 2005. The plant is designed to serve an equivalent population of 30,000 persons in East Stroudsburg Borough. Treatment plant effluent will continue to be discharged to Brodhead Creek through the existing outfall.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

March 10, 1987.

[FR Doc. 87-5814 Filed 3-17-87; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Intent To Prepare Environmental Impact Statement on the Decontamination and Waste Treatment Facility at the Lawrence Livermore National Laboratory, CA

AGENCY: Department of Energy.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Department of Energy intends to prepare an Environmental Impact Statement (EIS) to assess the environmental effects of constructing and operating a Decontamination and Waste Treatment Facility (DWTF) at the Lawrence Livermore National Laboratory (LLNL) in Livermore, California. LLNL is a federal facility operated by the University of California for the U.S. Department of Energy (DOE). This notice also announces a scoping meeting to receive public input on the scope of issues to be addressed in the EIS and for identifying significant issues relating to the proposed DWTF.

The proposed DWTF would provide centralized facilities for the storage, processing, and treatment of hazardous, mixed and radioactive wastes generated at LLNL. The proposed DWTF which would replace and upgrade existing Hazardous Waste Management (HWM) facilities would assure that the long-term management of hazardous waste at LLNL is accomplished in a safe, efficient and environmentally acceptable manner in compliance with federal, state, and local environmental regulations and DOE orders.

The purpose of this Notice of Intent (NOI) is to present pertinent background information on the proposed scope and content of the EIS and to solicit comments and suggestions for consideration in its preparation. Agencies, organizations, and individuals desiring to submit comments or suggestions for consideration in preparation of the EIS are invited to do so. Upon completion of the Draft EIS (DEIS), its availability will be announced in the **Federal Register**, at which time comments from the public will again be solicited. Comments received during the DEIS public review period will be used in preparing the Final EIS.

ADDRESSES: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting may be submitted to: Mr. Warren W. Warner Chief, Environmental and Nuclear Safety Branch Environment, Safety and Quality Assurance Division U.S. Department of Energy San Francisco Operations Office 1333 Broadway Oakland, California 94612 (415) 273-6442.

FOR FURTHER INFORMATION CONTACT: For general information on the EIS process please contact: Carol M. Borgstrom, U.S. Department of Energy, Office of NEPA Project Assistance (EH-25), 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: For general information on the EIS process please contact: Carol M. Borgstrom, U.S. Department of Energy, Office of NEPA Project Assistance (EH-25), 1000 Independence Avenue, SW., Washington, DC 20585.

DATES: To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions on the proposed scope of the EIS are invited from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS are requested within 30 days of publication of this NOI in the **Federal Register**. Written comments received after this time period will be considered to the degree practicable. Written comments sould be submitted to Mr. Warren W. Warner at the address above.

Public Scoping Meeting

The DOE will also hold a public scoping meeting at the location and time indicated below:

Location: Holiday Inn, 720 Los Flores Road, Livermore, CA 94550.

Date and time: April 30, 1987, 7:00 p.m.

Background Information

The Lawrence Livermore National Laboratory is a diversified applied research center operated by the University of California for DOE. LLNL is involved in nuclear and non-nuclear weapons design and also non-defense related programs such as magnetic and laser fusion energy research, basic science research, biomedical and

environmental science studies. In carrying out these programs, LLNL generates a great diversity of hazardous, mixed and radioactive wastes. To handle this wide variety of generated wastes, flexible treatment processes and knowledgeable personnel are required to assure safe and effective waste management operations that are fully in compliance with applicable federal, state, and local regulations.

An extensive upgrade in hazardous waste management at the Laboratory would result through the construction of the proposed DWTF. The proposed DWTF would replace and consolidate existing storage and treatment, and decontamination facilities presently in use at LLNL. The existing facilities are located in three separate areas of the laboratory. The Decontamination Building, Bldg. 419, is a 40 year old former paint shop with limited capability to accept large pieces of equipment for decontamination. The Building 514 are contains the existing liquid waste treatment facilities consisting of a 15,000 gallon storage tank, six (6) open top treatment tanks and a vacuum filter press. Hazardous, mixed and radioactive wastes are handled in the facility. The Building 612 area contains the outside storage yard, receiving area, solid waste processing building, reactive material storage, and a controlled air incinerator.

A more detailed description of existing LLNL facilities related to the proposed developed can be found in:

- Final Environmental Impact Statement, Lawrence Livermore National Laboratory and Sandia National Laboratories, DOE/EIS-0028, July 1982.
- LLNL Institutional Plan, FY 1985/1990, B.M. Boatman, UCAR-10076 December 4, 1984.
- LLNL Site Development and Facilities Utilization Plan, UCAR-10276 November, 1984.

Copies of these documents have been placed for public review in the Public Reading Room located at the DOE San Francisco Operations Office, 1333 Broadway, Oakland, CA; the Livermore City Public Library; and the Headquarters DOE Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C.

Proposed Action

The proposed action is to construct and operate the proposed DWTF on approximately six (6) acres in the northeast corner of the LLNL site. The proposed DWTF would consist of five (5) buildings totalling approximately 86,200 square feet and will include the following process and facilities:

- *Waste Processing and Decontamination Building:* Will house the rotary kiln incinerator and its associated pollution abatement equipment; a burn pan for oxidizing depleted uranium chips; the radioactive and non-radioactive liquid waste processing; the analytical laboratory; a contaminated clothing laundry; and the decontamination area which will be used for decontaminating both radioactive and non-radioactive material and equipment.
- *Waste Receiving and Solid Waste Packaging Building:* Will contain four (4) separate areas: a central waste receiving and classification area; a solid waste packaging and compacting area for low level wastes; a change room with associated shower, locker and toilet facilities; and a boiler/chiller area which houses a stream boiler, refrigeration chillers and associated equipment serving the entire DWTF complex.
- *Storage Building:* Will provide protected and segregated storage for transuranic and low level radioactive dry solid waste stored in drums and boxes prior to shipment. Appropriate spill containment, fire protection and safety measures will be incorporated into the design. A portion of the building will be used for storage of clean containers in a protected environment.
- *Reactive Materials Building:* Will provide facilities for both storage and treatment of toxic, reactive, oxidizers and flammable reactive materials. The operating cells will permit the safe treatment and neutralization of these materials to less toxic and safer materials which can be disposed offsite.
- *Operational Support Building:* Will house the HWM personnel and provides training, computer, conference and other support spaces.

The proposed project is estimated to cost approximately $40.9 million, including all planning, design and permitting requirements.

Identification of Environmental Issues

The following is a list of environmental issues associated with the proposed DWTF that have been identified for analysis and assessment in the EIS. This list is not all inclusive nor does it imply any predetermination if impacts:

- Effects on air and water quality and other environmental consequences during normal operations of the DWTF including the incineration of radioactive, mixed and hazardous waste.
- Effects of uncontrolled releases from system(s) upsets, accidents and equipment malfunctions including evaluation of the mitigation measures to reduce releases.
- Effects associated with the transportation of radioactive, mixed and hazardous waste on public roads.
- Temporary noise and air pollution resulting from construction operations.
- Potential for socio-economic impacts on the community due to influx of construction workers and DWTF operations.
- Possible impacts on archeological resources, flora and fauna, including rare and endangered species.
- Effect on sitting due to seismic requirements.
- Short-term versus long-term land use.
- Irretrievable and irreversible commitment of resources.
- Effect on cumulative impacts from the proposed action plus past, present and reasonably foreseeable actions at LLNL.
- Mitigation measures.

Alternatives to the Proposed Action:

The potential alternatives for managing radioactive, mixed and hazardous wastes generated at LLNL are: (1) no action; (2) increased use of existing off-site facilities including approved commercial and DOE sites; (3) upgrading of the existing on-site facilities; and (4) development of new on-site facilities. Consideration of alternative 4 will include the evaluation of alternate site at LLNL, including ones in the Northeast (preferred location) and the Northwest corners of LLNL and one site south of East Avenue. Under alternative 4, two design/treatment approaches are also under consideration: (a) Design of new facilities to meet presently established regulations, and (b) design to meet established regulations plus enhanced reduction of toxicity and volumes of wastes for shipment off-site (proposed action). Under the design/treatment approach 4(a), the following facilities would be installed: separate radioactive and non-radioactive liquid waste treatment and solidification systems; a decontamination facility; reactive materials storage and treatment; receiving; classification; solid waste storage and processing; and a controlled air incinerator. Deisgn/treatment approach 4(b) would include additional treatment to further reduce the toxicity and volumes of radioactive and non-radioactive waste shipped off-site. In addition to these treatment technologies, approach 4(b) would include a rotary kiln incinerator capable of treating hazardous, mixed and radioactive

wastes and increased solidification capabilities, which would substitute for the existing controlled air incinerator. This rotary kiln incinerator would have all required pollution control equipment as well as a crystallizer.

Comments and Scoping

All interested parties are invited to submit written comments or suggestions to be considered by DOE in scoping and preparing this EIS. Written comments on the scope of this EIS should be submitted to Mr. Warren Warner, at the address given in the Summary section above, within 30 days of the publication of this NOI in order to be considered in the preparation of this EIS. Comments received after that date will be considered to the degree practicable. The DEIS is expected to be completed by July 1, 1987, at which time its availability will be announced in the **Federal Register** and public comment will again be solicited. Those seeking further information may inquire of Mr. Warren or Ms. Borgstrom.

DOE will establish procedures governing the conduct of the meeting. The meeting will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To provide DOE with as much pertinent information as possible and as many views as can be reasonably obtained, and to provide interested persons with equitable opportunities to express their views, the following procedures will be used:

(1) Those individuals desiring to make oral comments should mail their requests to Mr. Warren Warner at the address listed above. DOE reserves the right to arrange the times and schedules of presentations to be heard and to establish procedures governing the conduct of the meeting. Interested individuals and organizations should notify DOE in writing of their desire to speak by April 24, 1987. DOE will, in turn, notify prospective speakers before the meeting of the times and schedules for presentations. Requests should include a telephone number for such notification. Those persons wishing to speak on behalf of an organization should identify their affiliation in their request. Also, persons who have not submitted a request to speak in advance may register to speak at the scoping meeting and will be called on to present their comments if time permits. Depending on the number of speakers, DOE reserves the right to place time limites on the speakers.

(2) If any speaker desires to provide further information for the record subsequent to the meeting, it must be submitted in writing to Mr. Warren Warner at the address listed above within one week after the scoping meeting.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should notify Warren Warner at the address listed above.

Signed in Washington, DC, this 12th day of March, 1987, for the United States Department of Energy.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 87-5844 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Program Research and Development Announcement; State Geothermal Research and Development

AGENCY: Department of Energy.

ACTION: Program Research and Development Announcement (PRDA) No. DE-PR07-86ID12662 for State Geothermal Research and Development. (Revision to **Federal Register** Announcement issued November 18, 1986, page 41652.)

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, desires to receive and consider for support, proposals from state agencies who desire to cost-share on state-oriented research on those aspects of geothermal energy that are not being studies by private industry, but which have the potential for results that will be applicable by industry in development of geothermal resources. The Geothermal Energy Research, Development, and Demonstration Act of 1974 provides for DOE to enter into agreements with States to perform geothermal resource analyses and technology transfer. The Congress has mandated that certain funds would be used to assist the States with significant hydrothermal resources. The total amount of DOE funding allotted for this program is approximately $1.2 million. The DOE cost-share will not exceed $200,000 per award and the state must cost-share a minimum of 10% of the gross amount requested. It is anticipated that at least six awards will be made, depending on the amount of each award. The expected contractual relationship will be grants.

MINIMUM REQUIREMENTS: Responses shall demonstrate that: (1) The agency is designated by the State as being responsible for geothermal resources within the State; (2) the areas of research are resource assessment, resource development, and technical assistance and related activities on hydothermal systems; (3) the proposed research must be on hydrothermal resources, and the States from which the proposals are received must have a significant hydrothermal resource base as defined by DOE research programs or by the U.S. Geological Survey Circulars 790 and 892; and (4) the proposed work must be in-state or have written approval from the appropriate executive in the other state(s) where the proposed work is to be done.

DATES: The PRDA will be issued during April 1987 with proposals due approximately 90 days thereafter.

CONTACTS: Potential proposers desiring to receive a copy of the PRDA should provide a written request to the following address: Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 834002, ATTN: Trudy A. Thorne, Contracts Management Division.

Issued at Idaho Falls, Idaho on February 24, 1987.

H. Brent Clark,

Director, Contracts Mangement Division.

[FR Doc. 87-5845 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Australia

Pursuant to section 311 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Australia concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S-AU-128, for the sale of 1 microgram of thorium-229, 1 milligram of thorium-230, and 0.1 microcurie of plutonium-236 to the Australian Atomic Energy Commission for use in the investigation of the leach properties of Synroc as an alternative waste form.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.
Dated: March 12, 1987.

George J. Bradley, Jr.,
Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-5841 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/SW(EU)-140, for the retransfer of MTR Fuel elements containing 20 kilograms of uranium, enriched to 19.95 percent in the isotope uranium-235 from the Federal Republic of Germany to Sweden for use as fuel in the R-2 material test reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

The subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.
Dated: March 12, 1987.

George J. Bradley, Jr.,
Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-5842 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; West Germany

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" pursuant to general license issued by the U.S. Nuclear Regulatory Commission.

The subsequent arrangement to be carried out under the above-mentioned authority involves approval of the following sale:

Contract Number S-EU-914, for the sale of 593.6 grams of natural uranium to Reaktor-Brennelement Union, GmbH, Hanau, the Federal Republic of Germany, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.
Dated: March 12, 1987.

George J. Bradley, Jr.,
Principle Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-5843 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86-39-NG; ERA Docket No. 86-40-NG]

Enron Gas Marketing, Inc.; Order Approving Blanket Authorization To Export and Import Natural Gas

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Order Approving Blanket Authorization to Export and Import Natural Gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice that it has issued an order granting blanket authorization to Enron Gas Marketing, Inc. (EGM) to export natural gas from the State of Montana, and import, in exchange, equivalent volumes of natural gas from Canada. The order issued in ERA Dockets Nos. 86-39-NG and 86-40-NG authorizes EGM to export and import up to 120,000 Mcf per day (60,000 Mcf per day in each docket). The authorization in ERA Docket No. 86-40-NG will run until the underlying marketing agreement between EGM and its supplier, Tricentrol Holdings, Inc. (THI) is terminated. Such termination will be when the Federal Energy Regulatory Commission approves the abandonment and sale of Northern Natural Gas Company's (an EGM affiliate) Montana gathering and pipeline system to THI. The authorization in ERA Docket No. 86-39-NG will run until the earlier of October 31, 1992, or until theunderlying marketing agreement between EGM and THI is terminated.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., March 9, 1987.

Robert L. Davies,
Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-5846 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-18; OFP Case No. 65042-9339-21,22,23-24]

Northeast Energy Associates; Acceptance of Petition for Exemption and Availability of Certification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, Northeast Energy Associates (Northeast or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption for three gas-fired combined cycle units to be located in Bellingham, Massachusetts, from the prohibitions of Title II the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. The basis for the requested exemption is the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the Federal Register.

DATES: Written comments are due on or before May 4, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-18 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-093, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586-6769.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586-6947.

SUPPLEMENTARY INFORMATION: The project is a 280 MW electric generating facility consisting of three gas-fired turbine generators, three recovery steam generators and three steam driven turbine generators.

Northeast proposes to design, finance, construct, own and operate a cogeneration facility to be known as the Northeast Energy Associates Cogeneration Project and to be located in Bellingham, Massachusetts. Steam produced by the facility will be used by Artic Circle Cold Storage Corporation and Cove Machinery Company and electric power generated will be sold to the Boston Edison Company, Commonwealth Electric Company and Montaup Electric Company.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify the petitioner pursuant to 10 CFR 503.32(a), must certify that:

(a) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum, as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), Northeast has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council of Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the Federal Register as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC on March 11, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-5847 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

LaJet Inc., et al.; Issuance of Proposed Remedial Order; Opportunity for Objection

AGENCY: Economic Regulatory Administration, U.S. Department of Energy.

ACTION: Notice of issuance of proposed remedial order to Lajet, Inc., Lajet Petroleum Company and Texas NAPCO, INC., and notice of opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the U.S. Department of Energy ("DOE") hereby gives notice of a Proposed Remedial Order ("PRO") which was issued to the following firms on February 13, 1987:

LaJet, Inc. 14190 E. Evans Avenue, Aurora, Colorado 80014

LaJet Petroleum Company, 3130 Antilley Road, Abilene, Texas 79606

Texas Napco, Inc., 3130 Antilley Road, Abilene, Texas 79606

The PRO charges that the Refiners Monthly Reports filed on behalf of LaJet, Inc. ("LaJet") misreported the certifications of LaJet's crude oil receipts. The PRO finds that certain volumes of crude oil which LaJet reported as exempt-certified were certified as price-controlled when delivered to LaJet's refinery, remained at the refinery at all times and were processed by Lajet for its own account, and therefore, were price-controlled crude oil receipts. As a result of LaJet's misreporting its crude oil receipts, in violation of the requirements of 10 CFR 211.66(b) and (h), LaJet evaded entitlements obligations in the amount of $91,172.025 before interest. The PRO further charges that LaJet engaged in a course of conduct to "recertify" the crude oil delivered to its refinery which circumvented and contravened the DOE's entitlements regulations, 10 CFR 211.67, in violation of 10 CFR 205.202

The violation period is February 1978 through September 1980. The impact of the violations was spread nationwide through the Entitlements Program. LaJet Petroleum Company, successor to LaJet's refining business, and Texas Napco, Inc., former parent of LaJet, are named in the PRO as jointly and severally liable along with LaJet.

A copy of the PRO may be obtained from the Freedom of Information Public Reading Room, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000, Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the PRO. If a Notice of Objection is not filed in accordance with § 205.193, the PRO may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, DC on the 5th day of March 1987.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-5848 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-288-000 et al.]

Carolina Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

March 12, 1987.

Take notice that the following filings have been made with the Commission:

1. Carolina Power & Light Company

[Docket No. ER87-288-000]

Take notice that Carolina Power & Light Company ("Company") on March 5, 1987, tendered for filing a Letter of Agreement dated February 27,1987, between the operating representatives of the Company and Fayetteville Public Works Commission of the City of Fayetteville (FPWC). The Letter of Agreement has been designated Appendix F to the Amendment between the Company and FPWC dated January 16, 1986.

Under the Contract dated January 23, 1987, between the United States of America, Department of Energy, acting by and through the Southeastern Power Administration (Government) and Carolina Power & Light Company, the Company agreed to deliver Kerr Project capacity and energy to Government preference customers located within the Company's control area. By contract dated January 31, 1987, between FPWC and the Government, FPWC agreed to purchase from the Government 5,358 kW of Government capacity and a monthly declared amount of energy. Due to the limited amount of declared energy being received by FPWC from SEPA, the FPWC and Company have arranged for the Company's supply of deficiency energy to be integrated with capacity and energy from SEPA to be supplied under the Government-FPWC contract. The Letter of Agreement filed herewith provides for the Company to supply the deficiency energy using the provisions of this Letter of Agreement and the Replacement Power Section of the January 16, 1987 Amendment to the Contract between the Company and FPWC. The Company has requested that the Letter of Agreement be effective as of 12:01 A.M., February 1, 1987, which is the effective date of the contracts between the Government and the Company and the Government and PWC.

It is proposed that the Commission waive its 60-day notice requirement and allow the Letter of Agreement submitted herewith to become effective at 12:01 A.M. on February 1, 1987.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Kansas City Power & Light Company

[Docket No. ER86-701-002]

Take notice that on February 27, 1987, Kansas City Power & Light Company (KCPL) tendered for filing a supplemental cost of service schedule, rate schedules, and other exhibits which reflect the 34 percent federal tax rate which will take effect in 1988 in accordance with the tax Reform Act of 1986.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Niagara Mohawk Power Corporation

[Docket No. ER87-293-000]

Take notice that Niagara Mohawk Power Corporation (Niagara), on March 9, 1987, tendered for filing as a rate schedule, a supplement agreement between Niagara and Consolidated Edison Company of New York Inc. (Consolidated Edison) dated September 17, 1986.

Niagara presently has on file an agreement with Consolidated Edison dated April 1, 1979 last amended July 21, 1983. The original agreement is to provide transmission service for the delivery of diversity power and energy from the Power Authority of the State of New York (PASNY) to be Consolidated Edison. The diversity power and energy is in turn exchanged by PASNY with Hydro Quebec. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 113. This new agreement is being transmitted as a supplement to the existing agreement and supersedes and amends Supplement No. 4.

The September 17, 1986 agreement, which is a supplement to the original agreement, revises the transmission rates. Niagara requests a waiver of the Commission's prior notice requirements in order to allow the September 17, 1986 agreement to become effective April 1, 1983. Niagara Mohawk states that Consolidated Edison has agreed to the proposed effective date.

Copies of the filing were served upon the following:

Consolidated Edison Company of New York Inc., 4 Irving Place, New York, NY 10003

Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY 12223.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corporation

[Docket No. ER87-294-000]

Take notice that Niagara Mohawk Power Corporation (Niagara), on March 9, 1987, tendered for filing as a rate schedule, an agreement between Niagara and Consolidated Edison Company of New York Inc. (Consolidated Edison) dated September 17, 1986.

Niagara presently has on file an agreement with Consolidated Edison dated February 14, 1975, last amended August 9, 1982. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No 90. This new agreement is being transmitted as a supplement to the existing agreement, and amends Supplement No. 4.

The supplements revise the transmission rates for transmitting FitzPatrick power and energy from the Power Authority to Consolidated Edison for the period commencing September 1, 1983 as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice

requirements in order to allow said agreement to become effective as of September 1, 1983. Niagara Mohawk states that Consolidated Edison has agreed to the proposed effective date

Copies of the filing were served upon the following:

Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, NY 10003

Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY 12223.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER87-290-000]

Take notice that, on March 6, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Riverside, California ("Riverside"):

Edison-Riverside
PGandE Firm Transmission Service Agreement

Under the terms and conditions of the Agreement, Edison will make available to Riverside firm transmission service for its purchases of nonintegrated capacity and energy from the Pacific Gas and Electric Company ("PGandE") to the Point of Delivery at the Riverside City Limits, Riverside, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission (without changes unacceptable to either party); and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Riverside, California.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER87-291-000]

Take notice that, on March 6, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Banning, California ("Banning"):

Edison-Banning
PGandE Firm Transmission Service Agreement

Under the terms and conditions of the Agreement, Edison will make available to Banning firm transmission service for its purchases of nonintegrated capacity and energy from the Pacific Gas and Electric Company ("PGandE") to the Point of Delivery at the Banning Substation, Banning, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission (without changes unacceptable to either party); and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Banning, California.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER87-292-000]

Take notice that, on March 6, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Anaheim, California ("Anaheim"):

Edison-Anaheim
PGandE Firm Transmission Service Agreement

Under the terms and conditions of the Agreement, Edison will make available to Banning firm transmission service for its purchases of nonintegrated capacity and energy from the Pacific Gas and Electric Company ("PGandE") to the Point of Delivery at Lewis Substation, Anaheim, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission (without changes unacceptable to either party); and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Anaheim, California.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Texas Utilities Electric Company

[Docket No. ER82-545-002]

Take notice that in accordance with the settlement approved and adopted by the Commission's letter order in *Public Service Company of Oklahoma, et al.*, Docket Nos. ER82-545-000, et al., issued January 27, 1987, Texas Utilities Electric Company submitted for filing, on February 26, 1987, its Compliance Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

Copies of this filing have been served on all parties to this proceeding.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Virginia Electric and Power Company

[Docket No. ER87-289-000]

Take notice that on March 5, 1987, Virginia Electric and Power Company (Virginia Power) tendered for filing Modification No. 25 dated February 1, 1987 to the Interconnection Agreement dated February 1, 1948 between Virginia Power and Appalachian Power Company. The Commission has previously designated the 1948 Agreement as Virginia Power's Rate Schedule FERC No. 7 and Appalachian's Rate Schedule FERC No. 16.

Modification No. 25 updates the 1948 Agreement by incorporating points of interconnection between the Parties added since the original signing of the 1948 Agreement and to provide for a new point of interconnection between the Parties, the Banister Interconnection Point.

Copies of the filing were served upon the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

Comment date: March 26, 1987, in accordance with Standard Paragraph E at the end of this document.

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.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-5818 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-75-000, CP87-131-000 and CP87-132-000]

Tennessee Gas Pipeline Co.; Intent to Prepare an Environmental Assessment and Request for Comments on Environmental Issues

March 13, 1987

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) will prepare an environmental assessment on the facilities proposed in the above-referenced dockets. The applicant, Tennessee Gas Pipeline Company (Tennessee), is seeking certificates of public convenience and necessity, under section 7 of the Natural Gas Act, authorizing the sale nad transportation of natural gas in interstate commerce and the construction and operation of natural gas pipeline facilities in three separate, but related projects. Table 1 lists the proposed facilities by docket number and location. The detailed route maps are not published in the Federal Register, but are included on copies of the notice distributed by the Commission to parties, agencies, and the public.

In Docket No. CP87-75-000, Tennessee is seeking authority to sell up to 30,000 decatherms per day (Dt/d) of natural gas to Providence Gas Company in Rhode Island. To provide the proposed firm sales service, Tennessee proposes to construct and operate five sections of 30-inch-diameter mainline loop, totaling 8.4 miles, on its No. 200 line in New York and Massachusetts. Tennessee also also proposes to construct a new delivery lateral consisting of 36 miles of 16- and 20-inch-diameter pipeline in Massachusetts and Rhode Island, called the Rhode Island Extension (refer to maps 1-15). Collectively, the proposal will be referred to as the "Providence Project." The total estimated cost of the Providence Project is $31,679,000. Also, Providence Gas Company would construct approproximately 1,600 feet of 16-inch-diameter gas main in Cranston, Rhode Island, to connect to the proposed terminus of the Rhode Island Extension.

In Docket No. CP87-131-000, Tennessee proposes to construct and operate the facilities necessary to expand its Niagara Spur Line to enable it to transport a total of 292,000 Dt/d from Canada, and to provide a firm transportation service of 50,000 Dt/d for Canadian Gateway Pipeline System (facilities proposed by Consolidated Gas Transmission Corporation and Texas Eastern Niagara, Inc. in Docket No. CP86-513-000). To increase the capacity of the Niagara Spur to enable Tennessee to receive 292,000 Dt/d at the Niagara receipt point, Tennessee proposed to: (1) Uprate the maximum allowable operating pressure of the Niagara Spur from 731 to 877 psia; (2) install measurement and odorization facilities for approximately 300,000 Dt/d at its Lewiston Meter Station, at the Niagara River, in Niagara County, New York; (3) operate, on a permanent basis, the 3,500-horsepower compressor facilities at Station 233 in Livingston County, New York, authorized for interim service under Docket Nos. CP86-251-000 and CP86-251-001 (the INGS Pipeline Project); and (4) replace the 1,000-horsepower compressor facilities at Station 230 in Erie County, New York, also authorized for interim service under Docket Nos. CP86-251-000 and CP86-251-001, with permanent 3,500-horsepower compressor facilities (refer to maps 16-18). The total estimated cost of the Niagara Spur expansion is $14,567,000.

In Docket No. CP87-132-000, Tennessee proposed to transport, on a firm basis from the Niagara receipt point, up to 50,000 Dt/d for Ocean State Power to fuel 235 megawatt combined-cycle electric power generating plant proposed to be constructed near Burrillville, Rhode Island. To provide firm transportation service, Tennessee proposes to construct and operate seven sections of 30-inch-diameter pipeline loop, totaling 33.1 miles, on its No. 200 mainline in New York and Massachusetts, and on the Niagara Spur (refer to maps 19-30). Also, Tennessee proposes to install an additional 3,500 horsepower of compression at Station 233 in Livingston County, New York (in addition to the 3,500 horsepower proposed in CP87-131-000), and an additional 2,000 horsepower of compression at Station 264 in Worcester County, Massachusetts. A meter station (Sherman Road Station) would also be constructed adjacent to the Ocean State Power Plant site in Providence County, Rhode Island. Furthermore, Tennessee requests, if the Providence Project is not approved by the FERC, that authorization be given under Docket No. CP87-132-000 construction of that portion of the Rhode Island Extension that would allow service to Ocean State Power (i.e., 10.7 miles of 20-inch-diameter pipeline). The total estimated cost of the "Ocean State Power Project" gas facilities is $52,010,000, excluding the Rhode Island Extension.

While the construction of the Ocean State Power Plant is not within the FERC's jurisdiction, authorization is necessary from the Rhode Island Energy Facility Siting Board (Siting Board). Inasmuch as the gas pipeline facilities proposed by Tennessee is a related, if not necessary, part of the Ocean State Power Plant project, the FERC staff will coordinate with the Siting Board concerning the Siting Board's review of Ocean State Power's application for construction of the power plant, and will include an appropriate level of discussion on the facility in the staff's environmental assessment. Comments are specifically requested on the following concerns:

(1) What are the environmental issues and their significance concerning the location, construction and/or operation of the Ocean State Power Plant?

(2) Is Tennessee's construction and transportation proposal and the associated Ocean State Power project a major Federal action which would have a signficant impact on the quality of the human environment? If so, why?

(3) Can the "Providence Project" and the "Ocean State Project" be considered separately in the environmental review or must they be considered together in one environmental assessment?

Altogether, in the three projects, Tennessee proposes to constuct 41.5 miles of 30-inch-diameter pipeline looping, 36 miles of new 16- and 20-inch-diameter pipeline, 9,000 horsepower of compression at three stations (replacing a total of 4,500 horsepower at two of those stations), and three new meter stations. The total estimated cost of the three proposals is $98,256,000.

Tennessee proposed to utilize a 75-foot-wide construction right-of-way (ROW) for installation of the proposed pipeline facilities. In general, loop lines would be installed 25 feet from the existing lines (utilizing 25 feet of the existing ROW), and an additional 50 feet would be used during construction. After construction is completed, the outside 25 feet of ROW width would be allowed to revert to its former use and the 25 feet adjacent to the existing ROW would become part of the permanent ROW. Minor exceptions would occur where terrain features or the need for special construction techniques dictate. For example, a portion of mainline loop M-3 (Docket No. CP87-75-000) would cross Sodom Mountain in Hampden County, Massachusetts. Because of the anticipated need for extensive blasting, Tennessee proposes to use a 50-foot separation from the existing line for approximately one mile through that area. Also, special construction techniques may be used in residentially congested areas to minimize land use impact on and disturbance to local residents. For example, in the Manor Heights Subdivision area on loop 4, in Onondaga County, New York (Docket

No. CP87-132-000), the pipeline is proposed to be installed using the following specific measures:

(1) The proposed 30-inch pipeline will be constructed 15-feet north of the existing 24-inch pipeline with all work being restricted within the 50-foot permanent and 10-foot temporary easement.

(2) A 6-foot trench will be dug by backhoe with the spoil being placed to the south over the existing line.

(3) Pipe sections for lot numbers 22, 23, and 39 will be fabricated in the field to the west of lot no. 22.

(4) These sections will then be carried by sideboom and placed in the trench and welded together. The sections will be only 3 or 4 joints (120 to 160 feet) long because they will have to be strung under the buried utility lines.

(5) If driveways are left open overnight, a metal plate or similar cover will be installed to allow access.

(6) Trenches left open overnight will be held to a minimum, and snow fences will be used to keep animals and children out of the excavation.

(7) Through lot numbers 40 and 42, a small pipeline crew will weld and coat the pipe on the right-of-way and lower it in, all in a conventional manner. The working space will be limited to approximately 30 to 32 feet, which is tight and will not allow room for passing.

(8) Backfilling will commence immediately when the sections are placed in the ditch and/or tied into each other. Cleanup will follow, the driveways rebuilt and repaved, and trees, bushes and lawns will be replaced by a local landscape contractor as agreed upon with the landowner.

Pipeline construction in other highly developed and developing areas in and around the town of Southwick, Massachusetts (loop 7, Docket No. CP87-132-000) would also employ mitigating measures similar to those outlined above.

The 36-mile-long Rhode Island Extension (Docket No. CP87-75-000) would be constructed using a 75-foot-wide ROW; 25 feet of which would only be needed temporarily and would revert to its former use after construction is completed.

Along each segment of pipeline some additional land would be required adjacent to the ROW in areas such as road crossings (25 feet x 100 feet), and stream and wetland crossings (50 feet x 150 feet), to accommodate special construction techniques. Approximately one-half acre at each end of the Rhode Island Extension, and three or four areas of approximately 3 acres each would be needed temporarily for field offices, pipe storage, and equipment mobilization and demobilization. Tennessee states that it would instruct its contractor to clear only that land which is needed for construction.

Total estimated land requirements for the Providence (Docket No. CP87-75-000) and Ocean State (Docket No. CP87-132-000) projects would be about 722 acres during construction, of which 348 acres would be retained as permanent ROW while the remainder would revert to its former uses. Facilities proposed in the Niagara Spur Project would be located entirely within existing compressor or meter station property owned by Tennessee.

Tennessee states that it is committed to minimizing erosion and sedimentation from construction of the proposed projects and would restore and revegetate all disturbed areas in cooperation with landowners and/or the local Soil Conservation Service office. A preliminary sediment and erosion control plan has been included in the applications for the Providence and Ocean State projects, and is currently under review by the FERC staff.

While some of the facilities proposed in these applications have been previously analyzed by the FERC staff in its Tennessee/Boundary Looping Project—Final Environmental Impact Statement issued in February 1983, and to some extent, in its environmental assessment on the INGS Pipeline Project issued in July 1986, the environmental assessment proposed in this notice, will be a self-contained environmental document. Alternatives, route modifications and specific mitigating measures will be considered in the staff's analysis.

The FERC staff has identified the following specific issues to be addressed in the environmental assessment. Comments on these, and any other issues concerning potential environmental impact of the proposals, are welcome. Additional issues to be considered in-depth will be based on public comments.

Land Use—Effect of right-of-way location and width on sand and gravel mining and future uses of land.

Water Resources—Effects of pipeline contruction on crossings of Slatersville and Simmons reservoirs and on Swans, Lackey, and Stillwater ponds.

Restoration—Erosion control, topsoil preservation, revegetation, drain tile repair, soil productivity.

Vegetation and Wildlife—Impacts on wetlands, fisheries, threatened and endangered species.

Cultural Resources—Effects on National Register of Historic Places—listed, or eligible properties.

The environmental assessment will be based on the staff's independent analysis of the proposal and together with the comments received will comprise part of the record to be considered by the Commission in this proceeding. The environmental assessment will be sent to all parties in this proceeding, to those providing comments in response to this notice, to Federal and state agencies, and to interested members of the public. The environmental assessment may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a party to this proceeding and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene, pursuant to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214).

A copy of this notice and request for comments has been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. Comments on the scope of the environmental assessment should be filed as soon as possible but not later than April 17, 1987. All written comments must reference Docket Nos. CP87-75-000, CP87-131-000, and CP87-132-000, and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of the comments should also be sent to the Project Manager identified below. Comments on specific environmental issues should contain supporting documentation or rationale. Additional information about the proposal, is available from Mr. Lonnie Lister, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-8883.

Kenneth F. Plumb,

Secretary.

TABLE 1.—PROPOSED PIPELINE FACILITIES

Docket No., project name and proposed facilities	Pipe diameter (inches)	Length (miles)	State	Location	
				County	Mileposts [1]
CP87-75-000 "Providence":					
Rhode Island Extension	20	10.6	MA	Worcester	New Pipeline.
	20	0.1	RI	Providence	
	16	25.3	RI	Providence	
M-1 Loop	30	1.1	NY	Onondaga	MP 239+8.8 to 239+9.9.
M-2 Loop	30	2.0	NY	Madison	MP 242+9.3 to MLV 243.
M-3 Loop	30	2.7	MA	Hampden	MP 259+4.2 to 259+6.9.
M-4 Loop	30	1.2	MA	Hampden	MLV 261 to 261+1.2.
M-5 Loop	30	1.4	MA	Hampden	MLV 262 to 262+1.4.
New Providence Meter Station			RI	Providence	New facility.
CP87-131-000 "Niagara Spur":					
Expand Lewiston Meter Station			NY	Niagara	MP 230B-107.
Station 233 Permanent Operation of 3,500 hp compression authorized in CP86-251.			NY	Livingston	MP 232+14.5 (MLV 233).
Station 230 Replace 1,000 hp compression authorized in CP86-251 with permanent 3,500 hp.			NY	Erie	MP 230+8.14.
CP87-132-000 "Ocean State Power":					
Loop 1	30	11.2	NY	Niagara	MP 230B-105+5.0 to MLV 230B-107.
Loop 2	30	1.9	NY	Wyoming	MLV 231 to 231+1.9.
Loop 3	30	5.7	NY	Livingston	MLV 233 to 233+5.7.
Loop 4	30	2.3	NY	Onondaga	MP 239+9.9 to MLV 240.
Loop 5	30	3.7	NY	Madison	MP 242+5.6 to 242+9.3.
Loop 6	30	3.9	NY	Rensselaer	MLV 253 to 253+3.9.
Loop 7	30	4.4	MA	Hampden	MP 259+6.9 to MLV 260.
CP87-132-000 "Ocean State Power":					
Station 233 additional 3,500 hp compression			NY	Livingston	MLV 233.
Station 264 additional 2,000 hp compression			MA	Worcester	MP 263+11.44 (MLV 264).
New Sherman Road Meter Station			RI	Providence	New facility.

[1] Pipeline milepost (MP) locations are based on the distance from mainline valve stations (MLV), with values increasing toward the north and east.

[FR Doc. 87-5821 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-32-002]

Colorado Interstate Gas Co.; Proposed Change in FERC Gas Tariff

March 12, 1987.

Take notice that on March 5, 1987, Colorado Interstate Gas Company (CIG) pursuant to section 15 of its FERC Gas Tariff, Original Volume No. 1-A, filed First Revised Sheet No. 4, reflecting the 15.2 mills per Mcf Gas Research Institute (GRI) charge authorized by Commission Opinion No. 252 issued on September 29, 1986, in Docket No. RP86-117-000. CIG has requested that the proposed tariff sheet be made effective as of January 1, 1987. Pursuant to Paragraph 15 of CIG's FERC Gas Tariff, Original Volume No. 1-A, said GRI charge is applicable to CIG's Transportation Rate Schedules as set forth in CIG's FERC Gas Tariff Original Volume No. 1-A, provided, however, that such charge shall not be applied to an interstate pipeline which is a member of GRI nor to transactions where another interstate pipeline assesses the Adjustment Charge. CIG states that it inadvertently failed to incorporate the impact of Opinion 252 on its Original Volume No. 1-A Tariff at the time it made the appropriate changes to its Original Volume No. 1 Tariff.

Therefore CIG respectfully requested the Commission permit CIG to waive section 15.3 of the General Terms and Conditions of its FERC Gas Tariff Original Volume No. 1-A and to grant such other waivers of the Commission's Regulations as the Commission may deem necessary to accept the filing to be effective January 1, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 19, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5823 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-39-002]

Conoco Inc.; Application

March 11, 1987.

Take notice that on March 6, 1987, Conoco Inc. (Conoco) filed an application requesting the Federal Energy Regulatory Commission (Commission) to amend, on an expeditious basis, its Order Granting Extension of Limited Term Abandonment and Blanket Sales Certificate, issued March 31, 1986, as follows: (1) Provide for an extension of authorization through March 31, 1990; and (2) expand the authorization to include gas categorized under sections 104, 106(a), and 109 of the Natural Gas Policy Act of 1978 (NGPA).

Conoco states that the general market condition that led to its existing Limited Term Abandonment will continue past the March 31, 1987 termination date. If the limited-term abandonment and certificate authorization granted in Docket No. CI86-39-001 is extended past March 31, 1987, Conoco states that it could continue existing spot market sales and make additional sales. Conoco also states that expanding the authorization to include gas categorized under sections 104, 106(a) and 109 of the NGPA is in the public interest and will benefit the natural gas market as a whole.

It appears reasonable and consistent with the public interest in these cases to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard to or to make any protest with reference to said application should on or before March 23, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5819 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP68-179-011]

Florida Gas Transmission Co.; Proposed Original FERC Gas Tariff Sheet

March 12, 1987.

Take notice that Florida Gas Transmission Company ("Florida Gas") on March 6, 1987 tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following sheet:

Substitute Original Sheet No. 57A

FGT states that the purpose of this filing is to make certain changes to the tariff sheet filed by FGT on February 17, 1987 in compliance with Ordering Paragraph (D) of the Commission's Order issued January 16, 1987 in Docket Nos. CP68-179-006, *et al* (the "January 16 Order"). The January 16 Order required that FGT file tariff sheets within 30 days describing its *pro rata* allocation methodology to implement the interim allocation scheme set forth by the Commission in that order.

Subsequent to the filing of Original Sheet No. 57A on February 17, the Staff requested that certain changes be made to the Effectiveness and Reimposition of Limits sections of the proposed section 21 to clarify the intent and actual operation of these provisions. The Substitute Original Sheet No. 57A is being filed to reflect the changes requested by Commission Staff.

The proposed effective date of this tariff sheet is February 17, 1987.

A copy of this filing was served on each party required to be served by the Commission's regulations.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before March 19, 1987. The 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 who wishes to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and made available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5824 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-120-001]

Gas Gathering Corp.; Compliance Filing

[March 12, 1987

Take notice that on March 5, 1987, Gas Gathering Corporation ("GGC") submitted for filing the following tariff sheets.

First Revised Volume No. 1

Original Sheet No. 35-A
First Revised Sheet Nos. 29-35
Second Revised Sheet Nos. 8, 14-15, 26-28

The proposed effective date of the tariff sheets is June 29, 1986.

GGC states that the proferred changes to its tariff are occasioned by the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Conditions and Denying Request for Waiver of Filing Fee" issued June 30, 1986 (35 FERC Par. 61, 407) in this proceeding, and as the result of a technical conference held on August 21, 1986 and several informal conferences with the staff.

GGC states that the instant filing contains two major changes to its Rate Schedule IT-1 and to the General Terms and Conditions of its FERC Gas Tariff.

In its filing of June 3, 1986, Rate Schedule IT-1 provided for an overrun charge at a rate equal to that charged pursuant to Rate Schedule T-1. The instant filing reflects a change to such terms providing that the overrun charge under IT-1 is equal to the maximum rate that GGC is permitted to charge for service under Rate Schedule IT-1.

The second significant change regards the addition of sections 16.6 and 17.3 to the General Terms and Conditions, whereby GGC may terminate any executed service agreement under Rate Schedules T-1 or IT-1 in the event that the Shipper fails to commence deliveries within 30 days of the execution of an appropriate service agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 19, 1987. 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

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must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5826 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-25-002]

Mississippi River Transmission Corp.; Rate Change Filing

March 12, 1987.

Take notice that on March 10, 1987 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Nineteenth Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. Mississippi requests an effective date of March 1, 1987.

Substitute Nineteenth Revised Sheet No. 4 is being submitted pursuant to a Commission order dated February 27, 1987 in Docket Nos. TA87-2-25-000 and 001 to track pipeline supplier rate changes. Mississippi states that the filing under Rate Schedule CD-1 reflects a commodity rate decrease of .27 cents per Mcf. The single part rate under Rate Schedule SGS-1 also reflects a decrease of .27 cents per Mcf. The overall cost impact of such rate changes when applied to annual jurisdictional billing determinants is a $.3 million reduction.

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 a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 19, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-5825 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST86-1915-001]

Producer's Gas Co.; Extension Reports

March 12, 1987.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue sales of natural gas for an additional term of up to 2 years.[1]

The table below lists the name and addresses of each company selling pursuant to part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension reports should on or before March 23, 1987, 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 385.211 or 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 party to a 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.

Kenneth F. Plumb,

Secretary.

[1] Notice of these extension reports does not constitute a determination that a continuation of service will be approved.

EXTENSION LIST, JANUARY 15-31, 1987

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [2]
ST 86-1915-001 [1]	Producer's Gas Co., 6688 North Central Expressway, Suite 1600, Dallas, TX 75206.	Michigan Consolidated Gas Co.	01-29-87	D	04-12-87	04-29-87

[1] This extension report was filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.

[2] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.

[FR Doc. 87-5820 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST87-925-000 et al.]

Transok, Inc., et al, Self-Implementing Transactions

March 12, 1987.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the notice filing is in compliance with the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123 (b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to §284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to a §284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issed under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before March 23, 1987, 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 §§ 385.214 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 party to a 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.

Kenneth F. Plumb,
Secretary.

Docket No.[1] and Transporter/Seller		Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (per/MMBTU)
ST87-0925	Transok, Inc	Panhandle Eastern Pipe Line Co	01-02-87	C	06-01-87	26.25
ST87-0926	Northern Natural Gas Co	Minnegasco, Inc	01-02-87	B		
ST87-0927	Northern Natural Gas Co	City of Sanborn	01-02-87	B		
ST87-0928	Northern Natural Gas Co	Great Plains Natural Gas Co	01-02-87	B		
ST87-0929	Northern Natural Gas Co	Iowa Public Service Co	01-02-87	B		
ST87-0930	Northern Natural Gas Co	Sioux Center Natural Gas System	01-02-87	B		
ST87-0931	Northern Natural Gas Co	Iowa Southern Utilities Co	01-02-87	B		
ST87-0932	Northern Natural Gas Co	Taft Pipeline Co	01-03-87	B		
ST87-0933	Northern Natural Gas Co	Cendar Falls Utilities	01-02-87	B		
ST87-0934	Northern Natural Gas Co	ONG Transmission Co	01-02-87	B		
ST87-0935	Northern Natural Gas Co	Channel Industries Gas Co	01-02-87	B		
ST87-0936	Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	01-02-87	B		
ST87-0937	Northern Natural Gas Co	Iowa Electric Light & Power Co	01-02-87	B		
ST87-0938	Northern Natural Gas Co	Seagull Shoreline System	01-02-87	B		
ST87-0939	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	01-02-87	B		
ST87-0940	Texas Eastern Transmission Corp	Midwest Natural Gas Corp	01-02-87	B		
ST87-0941	Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	01-02-87	B		
ST87-0942	Northern Natural Gas Co	NGP Pipeline Co	01-02-87	B		
ST87-0943	Texas Eastern Transmission Corp	Baltimore Gas and Electric Co	01-02-87	B		
ST87-0944	Texas Eastern Transmission Corp	Peoples Natural Gas Co	01-02-87	B		
ST87-0945	Texas Eastern Transmission Corp	Columbia Gas of KY, et al	01-02-87	B		
ST87-0946	Texas Eastern Transmission Corp	Dayton Power and Light Co	01-02-87	B		
ST87-0947	Texas Eastern Transmission Corp	National Gas and Oil Corp	01-02-87	B		
ST87-0948	Texas Eastern Transmission Corp	Michigan Consolidated Gas co	01-02-87	B		
ST87-0949	Texas Eastern Transmission Corp	City of Richmond	01-02-87	B		
ST87-0950	ONG Transmission Co	Battle Creek Gas Co	01-05-87	C	06-04-87	10.00
ST87-0951	Texas Gas Transmission Corp	City of Morganfield	01-05-87	B		
ST87-0952	Texas Gas Transmission Corp	Michigan Gas Utilities Gas Co., et al	01-05-87	B		
ST87-0953	Texas Gas Transmission Corp	Memphis Light, Gas and Water Division	01-05-87	B		
ST87-0954	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-05-87	B		
ST87-0955	Texas Eastern Transmission Corp	East Ohio Gas Co	01-05-87	B		
ST87-0956	Texas Eastern Transmission Corp	City of Shelby, et al	01-05-87	B		
ST87-0957	Texas Eastern Transmission Corp	Associated Natural Gas Co	01-05-87	B		
ST87-0958	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	01-05-87	B		
ST87-0959	Texas Eastern Transmission Corp	Central Illinois Public Service Co	01-05-87	B		
ST87-0960	Texas Eastern Transmission Corp	Dayton Power and Light Co	01-06-87	B		
ST87-0961	Natural Gas Pipeline Co. of America.	NGC Intrastate Pipeline	01-07-87	B		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (per/MMBTU)
ST87-0962 Texas Eastern Transmission Corp	UGI Corp	01-07-87	B		
ST87-0963 Texas Eastern Transmission Corp	Southern Indiana Gas & Electric Co	01-07-87	B		
ST87-0964 Trunkline Gas Co	Consumers Power Co	01-08-87	B		
ST87-0965 Trunkline Gas Co	Consumers Power Co	01-08-87	B		
ST87-0966 Trunkline Gas Co	Consumers Power Co	01-08-87	B		
ST87-0967 Trunkline Gas Co	Consumers Power Co	01-08-87	B		
ST87-0968 Trunkline Gas Co	Consumers Power Co	01-08-87	B		
ST87-0969 Equitable Gas Co	Columbia Gas of Pennsylvania, Inc	01-08-87	B		
ST87-0970 Equitable Gas Co	Columbia Gas of Pennsylvania, Inc	01-08-87	B		
ST87-0971 Northern Natural Gas Co	Manning Municipal Gas Dept	01-08-87	B		
ST87-0972 Northern Natural Gas Co	Northwestern Public Service Co	01-08-87	B		
ST87-0973 Natural Gas Pipeline Co. of America	North Shore Gas Co	01-09-87	B		
ST87-0974 Northern Natural Gas Co	Lake Superior District Power	01-09-87	B		
ST87-0975 Northern Natural Gas Co	Northern States Power Co	01-09-87	B		
ST87-0976 Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	01-09-87	B		
ST87-0977 El Paso Natural Gas Co	City of Long Beach	01-09-87	B		
ST87-0978 Arkla Energy Resources	Arkansas Louisiana Gas Co	01-09-87	B		
ST87-0979 Northern Natural Gas Co	Metropolitan Utils. Dist. of Omaha	01-09-87	B		
ST87-0980 Tennessee Gas Pipeline Co	Tennessee River Intrastate Gas Co	01-09-87	B		
ST87-0981 Oasis Pipe Line Co	Northern Illinois Gas Co	01-12-87	C		
ST87-0982 Houston Pipe Line Co	Transcontinental Gas Pipe Line Corp	01-12-87	C		
ST87-0983 Houston Pipe Line Co	Northern Illinois Gas Co	01-12-87	C		
ST87-0984 El Paso Natural Gas Co	Pacific Gas and Electric Co	01-09-87	B		
ST87-0985 Colorado Interstate Gas Co	Cheyenne Light, Fuel & Power Co	01-12-87	B		
ST87-0986 Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	01-12-87	B		
ST87-0987 El Paso Natural Gas Co	Intersearch Gas Corp	01-12-87	B		
ST87-0988 Panhandle Eastern Pipe Line Co	Indiana Gas Co	01-12-87	B		
ST87-0989 Panhandle Eastern Pipe Line Co	Indiana Gas Co	01-12-87	B		
ST87-0990 Panhandle Eastern Pipe Line Co	Haynes Albion Pipeline Co	01-12-87	B		
ST87-0991 Panhandle Eastern Pipe Line Co	Indiana Gas Co	01-12-87	B		
ST87-0992 Panhandle Eastern Pipe Line Co	Utilicorp United Inc	01-12-87	B		
ST87-0993 Panhandle Eastern Pipe Line Co	Southeastern Michigan Gas Co	01-12-87	B		
ST87-0994 Panhandle Eastern Pipe Line Co	Getty Gas Gathering, Inc	01-12-87	B		
ST87-0995 Panhandle Eastern Pipe Line Co	Public Service Co. of Colorado	01-12-87	B		
ST87-0996 Northern Natural Gas Co	West Texas Gas, Inc	01-12-87	B		
ST87-0997 Tennessee Gas Pipeline Co	Cincinnati Gas & Electric Co., et al	01-12-87	B		
ST87-0998 Delhi Gas Pipeline Corp	Mississippi River Transmission Corp	01-12-87	C		
ST87-0999 Sabine Pipe Line Co	Bridgeline Gas Distribution Co	01-13-87	B		
ST87-1000 Louisiana Intrastate Gas Corp	Mid Louisiana Gas Co	01-14-87	C	06-13-87	22.40
ST87-1001 Texas Eastern Transmission Corp	Union Electric Co	01-14-87	B		
ST87-1002 Texas Eastern Transmission Corp	Central Illinois Public Service Co	01-14-87	B		
ST87-1003 Texas Eastern Transmission Corp	Endevco Pipeline Co	01-14-87	B		
ST87-1004 Texas Eastern Transmission Corp	Wisconsin Gas Co	01-14-87	B		
ST87-1005 Texas Eastern Transmission Corp	Mountaineer Gas Co	01-14-87	B		
ST87-1006 Sea Robin Pipeline Co	Atlanta Gas Light Co., et al	01-14-87	B		
ST87-1007 Transwestern Pipeline co	Southern California Gas Co	01-14-87	B		
ST87-1008 Transwestern Pipeline Co	West Texas Gas, Inc	01-14-87	B		
ST87-1009 Transwestern Pipeline Co	Southern California Gas Co	01-14-87	B		
ST87-1010 Transwestern Pipeline Co	Southern California Gas Co	01-14-87	B		
ST87-1011 Transwestern Pipeline Co	Southern California Gas Co	01-14-87	B		
ST87-1012 Colorado Interstate Gas Co	Minnegasco, Inc	01-14-87	B		
ST87-1013 Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1014 Consolidated Gas Transmission Corp.	Peoples Natural Gas co	01-15-87	B		
ST87-1015 Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1016 Consolidated Gas Transmission Corp.	East Ohio Gas Co	01-15-87	B		

Docket No.[1] and Transporter/Seller		Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (per/MMBTU)
ST87-1017	Consolidated Gas Transmission Corp.	East Ohio Gas Co	01-15-87	B		
ST87-1018	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1019	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1020	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1021	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1022	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-09-87	B		
ST87-1023	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1024	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1025	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1026	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1027	Equitable Gas Co	South Jersey Gas Co	12-19-87	B		
ST87-1028	Equitable Gas Co	New Jersey Natural Gas Co	12-19-87	B		
ST87-1029	Consolidated Gas Transmission Corp.	New York State Electric and Gas Co	01-15-87	B		
ST87-1030	Consolidated Gas Transmission Corp.	Hope Gas, Inc	01-15-87	B		
ST87-1031	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-15-87	B		
ST87-1032	Consolidated Gas Transmission Corp.	East Ohio Gas Co	01-15-87	B		
ST87-1033	Mountain Fuel Resources, Inc	Wisconsin Southern Gas Co., et al	01-15-87	B		
ST87-1034	United Gas Pipe Line Co	Victoria Gas Corp	01-15-87	B		
ST87-1035	United Gas Pipe Line Co	Entex, Inc	01-15-87	B		
ST87-1036	Natural Gas Pipeline Co. of America.	Northern Illinois Gas Co	01-15-87	B		
ST87-1037	Valero Transmission Co	Natural Gas Pipeline Co. of America	01-15-87	C		
ST87-1038	Valero Transmission Co	Transcontinental Gas Pipe Line Corp	01-15-87	C		
ST87-1039	Valero Transmission Co	Natural Gas Pipeline Co. of America	01-15-87	C		
ST87-1040	Valero Transmission Co	Trunkline Gas Co	01-15-87	C		
ST87-1041	El Paso Natural Gas Co	Village of Corona	01-16-87	B		
ST87-1042	El Paso Natural Gas Co	City of Morton	01-16-87	B		
ST87-1043	El Paso Natural Gas Co	Pacific Gas & Electric Co	01-16-87	B		
ST87-1044	Trunkline Gas Co	Consumers Power Co	01-16-87	B		
ST87-1045	Trunkline Gas Co	Eastex Gas Transmission	01-16-87	B		
ST87-1046	Trunkline Gas Co	East Ohio Gas Co	01-16-87	B		
ST87-1047	Trunkline Gas Co	Consumers Power Co	01-16-87	B		
ST87-1048	Trunkline Gas Co	Consumers Power Co	01-16-87	B		
ST87-1049	Trunkline Gas Co	Consumers Power Co	01-16-87	B		
ST87-1050	Trunkline Gas Co	Central Illinois Public Service Co	01-16-87	B		
ST87-1051	Trunkline Gas Co	Consumers Power Co	01-16-87	B		
ST87-1052	Trunkline Gas Co	Consumers Power Co	01-16-87	B		
ST87-1053	Delta Natural Gas Co., Inc	Columbia Gas Transmission Corp	01-16-87	C		
ST87-1054	United Gas Pipe Line Co	Tristar Energy, Inc	01-16-87	B		
ST87-1055	United Gas Pipe Line Co	East Ohio Gas Co., et al	01-16-87	B		
ST87-1056	United Gas Pipe Line Co	United Texas Transmission Co	01-16-87	B		
ST87-1057	United Gas Pipe Line Co	Pennsylvania Gas and Water Co., et al	01-16-87	B		
ST87-1058	United Gas Pipe Line Co	Quivara Gas Co	01-16-87	B		
ST87-1059	United Gas Pipe Line Co	Mobile Gas Service Corp	01-16-87	B		
ST87-1060	United Gas Pipe Line Co	Woodward Pipeline, Inc	01-16-87	B		
ST87-1061	United Gas Pipe Line Co	Mobile Gas Service Corp	01-16-87	B		
ST87-1062	Natural Gas Pipeline Co. of America.	Baltimore Gas and Electric Co., et al	01-16-87	B		
ST87-1063	Sea Robin Pipeline Co	Columbia Gas of Ky, et al	01-16-87	B		
ST87-1064	Tennessee Gas Pipeline Co	Louisiana Intrastate Gas Corp	01-16-87	B		
ST87-1065	Colorado Interstate Gas Co	Public Service Co. of Colorado	01-16-87	B		
ST87-1066	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-16-87	B		
ST87-1067	Texas Gas Transmission Corp	Indiana Gas Co	01-16-87	B		
ST87-1068	Texas Gas Transmission Corp	Indiana Gas Co	01-16-87	B		
ST87-1069	Northern Natural Gas Co	Llano, Inc	01-16-87	B		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (per/MMBTU)
ST87-1070 Transcontinental Gas Pipe Line Corp.	Delmarva Power and Light Co	01-16-87	B		
ST87-1071 Transcontinental Gas Pipe Line Corp.	Corpus Christi Industrial Pipeline Co	01-16-87	B		
ST87-1072 Transcontinental Gas Pipe Line Corp.	NGC Intrastate Pipeline Co	01-16-87	B		
ST87-1073 Transcontinental Gas Pipe Line Corp.	Bay State Gas Co., et al	01-16-87	B		
ST87-1074 Transcontinental Gas Pipe Line Corp.	Columbia Gas of Ky, et al	01-16-87	B		
ST87-1075 Transcontinental Gas Pipe Line Corp.	Hope Gas, Inc	01-16-87	B		
ST87-1076 Transcontinental Gas Pipe Line Corp.	City of Shelby	01-16-87	B		
ST87-1077 Transcontinental Gas Pipe Line Corp.	City of Lexington	01-16-87	B		
ST87-1078 Transcontinental Gas Pipe Line Corp.	Brooklyn Union Gas Co	01-16-87	B		
ST87-1079 Columbia Gulf Transmission Co	Illinois Public Service Co., et al	01-16-87	B		
ST87-1080 Tennessee Gas Pipeline Co	East Ohio Gas Co	01-16-87	B		
ST87-1081 Equitable Gas Co	Elizabethtown Gas Co	01-20-87	B		
ST87-1082 Equitable Gas Co	Philadelphia Electric Co	01-20-87	B		
ST87-1083 Equitable Gas Co	Brooklyn Union Gas Co	01-20-87	B		
ST87-1084 Michigan Gas Storage Co	Consumers Power Co	01-20-87	B		
ST87-1085 Transcontinental Gas Pipe Line Corp.	Peoples Light, Gas and Coke Co., et al	01-20-87	B		
ST87-1086 Transcontinental Gas Pipe Line Corp.	Hanley and Bird, et al	01-20-87	B		
ST87-1087 Transcontinental Gas Pipe Line Corp.	Bridgeline Gas Distribution Co	01-20-87	B		
ST87-1088 Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	01-20-87	C	06-19-87	54 70
ST87-1089 Transcontinental Gas Pipe Line Corp.	Faustina Pipe Line Co	01-20-87	B		
ST87-1090 Transcontinental Gas Pipe Line Corp.	Atlanta Gas Light Co	01-20-87	B		
ST87-1091 Western Transmission Corp	Amalgamated Pipeline Co., et al	01-20-87	B		
ST87-1092 Transcontinental Gas Pipe Line Corp.	Dayton Power and Light Co	01-20-87	B		
ST87-1093 Transcontinental Gas Pipe Line Corp.	Pennsylvania Gas and Water Co	01-20-87	B		
ST87-1094 Transcontinental Gas Pipe Line Corp.	Northern Illinios Gas Co	01-20-87	B		
ST87-1095 Transcontinental Gas Pipe Line Corp.	Transamerican Gas Transmission Corp	01-20-87	B		
ST87-1096 Transcontinental Gas Pipe Line Corp.	Texline Gas Co	01-20-87	B		
ST87-1097 Transcontinental Gas Pipe Line Corp.	TXG Pipeline Co	01-20-87	B		
ST87-1098 Transcontinental Gas Pipe Line Corp.	Memphis Light, Gas & Water Division	01-20-87	B		
ST87-1099 Transcontinental Gas Pipe Line Corp.	Corpus Christi Industrial Pipeline Co	01-20-87	B		
ST87-1100 Transcontinental Gas Pipe Line Corp.	Mississippi Valley Co	01-20-87	B		
ST87-1101 Colorado Interstate Co	Trinity Pipeline Co	01-20-87	B		
ST87-1102 Colorado Interstate Co	Amalgamated Pipeline Co	01-20-87	B		
ST87-1103 Natural Gas Pipeline Co. of America.	Illinios Power Co	01-20-87	B		
ST87-1104 Columbia Gas Transmission Corp	Public Service Electric & Gas Co	01-20-87	B		
ST87-1105 Columbia Gas Transmission Corp	Syracuse Home Utilities Company, Inc	01-20-87	B		
ST87-1106 Columbia Gas Transmission Corp	Pentex Pipeline Co., Inc	01-20-87	B		
ST87-1107 Texas Eastern Transmission Corp	Commonwealth Gas Services	01-20-87	B		
ST87-1108 Texas Eastern Transmission Corp	Washington Gas Light Co	01-20-87	B		
ST87-1109 Texas Eastern Transmission Corp	East Ohio Gas Co	01-20-87	B		
ST87-1110 Texas Eastern Transmission Corp	Central Illinois Public Service Co	01-20-87	B		
ST87-1111 Texas Eastern Transmission Corp	East Ohio Gas Co	01-20-87	B		
ST87-1112 Texas Eastern Transmission Corp	Wisconsin Public Service Commission	01-20-87	B		
ST87-1113 Texas Eastern Transmission Corp	Iowa Southern Utilities Co	01-20-87	B		
ST87-1114 Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	01-20-87	B		
ST87-1115 Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	01-20-87	B		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expration date [2]	Transportation rate (per/MMBTU)
ST87-1116 Texas Eastern Transmission Corp	Mississippi Valley Gas Co	01-20-87	B		
ST87-1117 Texas Eastern Transmission Corp	Mississippi Valley Gas Co	01-20-87	B		
ST87-1118 Texas Eastern Transmission Corp	Commonwealth Gas Pipeline Corp	01-20-87	B		
ST87-1119 Natural Gas Pipeline Co. of America.	Central Illinois Light Co	01-20-87	B		
ST87-1120 Tennessee Gas Pipeline Co	Bishop Pipeline Corp	01-20-87	B		
ST87-1121 El Paso Natural Gas Co	Gas Marketing, Inc	01-21-87	B		
ST87-1122 United Gas Pipe Line Co	Polo Energy Corp	01-21-87	B		
ST87-1123 Trunkline Gas Co	Central Illinois Light Co	01-21-87	B		
ST87-1124 Texas Gas Transmission Corp	Michigan Gas Utilities Co., et al	01-21-87	B		
ST87-1125 Colorado Interstate Gas Co	Iowa-Illinois Gas & Electric Co	01-21-87	B		
ST87-1126 Acadian Gas Pipeline System	Columbia Gas Transmission Corp	01-22-87	C		
ST87-1127 El Paso Natural Gas Co	Northern States Power Co. of WI, et al	01-23-87	B		
ST87-1128 El Paso Natural Gas Co	Gas Co. of NM (Div. Public Serv. Co. NM)	01-23-87	B		
ST87-1129 Trunkline Gas Co	Consumers Power Co	01-23-87	B		
ST87-1130 Trunkline Gas Co	Consumers Power Co	01-23-87	B		
ST87-1131 Northern Natural Gas Co	Northern Central Public Service Co	01-23-87	B		
ST87-1132 Northern Natural Gas Co	Iowa Public Service Co	01-23-87	B		
ST87-1133 Northern Natural Gas Co	Iowa Public Service Co	01-23-87	B		
ST87-1134 Northern Natural Gas Co	Michigan Power Co	01-23-87	B		
ST87-1135 Louisiana Resources Co	United Gas Pipe Line Co	01-23-87	C	06-22-87	26.43
ST87-1136 Trunkline Gas Co	Consumers Power Co	01-23-87	B		
ST87-1137 Trunkline Gas Co	Intrastate Gathering Corp	01-23-87	B		
ST87-1138 Trunkline Gas Co	Consumers Power Co	01-23-87	B		
ST87-1139 Trunkline Gas Co	Consumers Power Co	01-23-87	B		
ST87-1140 El Paso Natural Gas Co	Southern California Gas Co	01-23-87	B		
ST87-1141 Natural Gas Pipeline Co. of America.	Northern Illinois Gas Co	01-23-87	B		
ST87-1142 Natural Gas Pipeline Co. of America.	Northern Illinois Gas Co	01-23-87	B		
ST87-1143 Natural Gas Pipeline Co. of America.	Northern Illinois Gas Co	01-23-87	B		
ST87-1144 Natural Gas Pipeline Co. of America.	Atlanta Gas Light Co., et al	01-23-87	B		
ST87-1145 Sabine-Desoto Pipeline Co., Inc	Southern Natural Gas Co	01-27-87	C		
ST87-1147 Tennessee Gas Pipeline Co	Colonial Gas Company	01-27-87	B		
ST87-1148 Oasis Pipe Line Co	El Paso Natural Gas Co	01-27-87	C		
ST87-1149 Texas Eastern Transmission Corp	East Ohio Gas Co	01-27-87	B		
ST87-1150 Texas Eastern Transmission Corp	Enmark Gas Corp	01-27-87	B		
ST87-1151 Texas Eastern Transmission Corp	Indiana Gas Co	01-27-87	B		
ST87-1152 Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	01-27-87	B		
ST87-1153 Texas Eastern Transmission Corp	Wisconsin Natural Gas Co	01-27-87	B		
ST87-1154 Texas Eastern Transmission Corp	Suburban Fuel Gas, Inc., et al	01-27-87	B		
ST87-1155 Texas Eastern Transmission Corp	Peoples Natural Gas Co	01-27-87	B		
ST87-1156 Tennessee Gas Pipeline Co	Cabot Corp	01-27-87	B		
ST87-1157 Louisiana Resources Co	United Gas Pipe Line Co	01-27-87	C	06-26-87	26.43
ST87-1158 Panhandle Eastern Pipe Line Co	Ohio Gas Co	01-27-87	B		
ST87-1159 Panhandle Eastern Pipe Line Co	Ohio Gas Co	01-27-87	B		
ST87-1160 Natural Gas Pipeline Co. of America.	Iowa Electric Light & Power Co	01-27-87	B		
ST87-1161 El Paso Natural Gas Co	Southern Union Gas Co	01-28-87	B		
ST87-1162 Transok, Inc	Natural Gas Pipeline Co. of America	01-28-87	C	06-27-87	21.75
ST87-1163 Consolidated Gas Transmission Corp.	East Ohio Gas Co	01-28-87	B		
ST87-1164 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1165 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1166 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1167 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1168 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1169 Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp	01-28-87	B		
ST87-1170 Consolidated Gas Transmission Corp.	Hope Gas, Inc	01-28-87	B		
ST87-1171 Consolidated Gas Transmission Corp.	Corning Natural Gas Corp	01-28-87	B		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (per/MMBTU)
ST87-1172 Consolidated Gas Transmission Corp.	Pennsylvania Gas & Water Co	01-28-87	B		
ST87-1173 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1174 Consolidated Gas Transmission Corp.	Hope Gas, Inc	01-28-87	B		
ST87-1175 Consolidated Gas Transmission Corp.	Peoples Naural Gas Co	01-28-87	B		
ST87-1176 Consolidated Gas Transmission Corp.	River Gas Co	01-28-87	B		
ST87-1177 Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-28-87	B		
ST87-1178 Northern Natural Gas Co	Gulf South Pipeline Co	01-28-87	B		
ST87-1179 Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-28-87	B		
ST87-1180 Consolidated Gas Transmission Corp.	Peoples Natural Gas Co	01-28-87	B		
ST87-1181 Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp	01-28-87	B		
ST87-1182 Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp	01-28-87	B		
ST87-1183 Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp	01-28-87	B		
ST87-1184 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1185 Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp	01-28-87	B		
ST87-1186 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1187 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1188 Consolidated Gas Transmission Corp.	Rochester Gas & Electric Corp	01-28-87	B		
ST87-1189 United Gas Pipe Line Co	Mississippi Valley Gas Co	01-28-87	B		
ST87-1190 United Gas Pipe Line Co	Mississippi Valley Gas Co	01-28-87	B		
ST87-1191 United Gas Pipe Line Co	City of Pascagoula	01-28-87	B		
ST87-1192 Natural Gas Pipeline Co. of America.	Northern Illinois Gas Co	01-28-87	B		
ST87-1193 Texas Gas Transmission Corp	Memphis Light, Gas & Water Division	01-29-87	B		
ST87-1194 Texas Gas Transmission Corp	Western Kentucky Gas Co	01-29-87	B		
ST87-1195 Arkla Energy Resources, (La Intra. Seg.).	Arkla Energy Resources	01-29-87	C	06-28-87	45.00
ST87-1196 Tennessee Gas Pipeline Co	Entex, Inc	01-29-87	B		
ST87-1197 Tennessee Gas Pipeline Co	Llano, Inc	01-29-87	B		
ST87-1198 Natural Gas Pipeline Co. of America.	Peoples Gas Light & Coke Co	01-29-87	B		
ST87-1199 Natural Gas Pipeline Co. of America.	Central Illinois Light Co	01-29-87	B		
ST87-1200 Trunkline Gas Co	Consumers Power Co	01-29-87	B		
ST87-1201 Trunkline Gas Co	Consumers Power Co	01-29-87	B		
ST87-1202 Trunkline Gas Co	Consumers Power Co	01-29-87	B		
ST87-1203 Trunkline Gas Co	Humble Gas System, Inc	01-29-87	B		
ST87-1204 PGC Pipeline, Div. of LPC Energy Inc.	Texas Eastern Transmission Corp	01-29-87	C	06-28-87	21.50
ST87-1205 Colorado Interstate Gas Co	ONG Transmission Co	01-29-87	B		
ST87-1206 Colorado Interstate Gas Co	Pacific Gas & Electric Co	01-29-87	B		
ST87-1207 Colorado Interstate Gas Co	Western Gas Supply Co	01-29-87	B		
ST87-1208 ONG Transmission Co	Hayes Albion Pipeline Co	01-30-87	C	06-29-87	10.00
ST87-1209 Northern Natural Gas Co	Fremont Dept. of Utilities, Nat. Gas Div	01-30-87	B		
ST87-1210 Northern Natural Gas Co	Columbia Gas of Ohio, Inc	01-30-87	B		
ST87-1211 Northern Natural Gas Co	Colony Pipeline Corp	01-30-87	B		
ST87-1212 Northern Natural Gas Co	Channel Industries Gas Co	01-30-87	B		
ST87-1213 Northern Natural Gas Co	Channel Industries Gas Co	01-30-87	B		
ST87-1214 Northern Natural Gas Co	Apache Transmission Co.—TX	01-30-87	B		
ST87-1215 Northern Natural Gas Co	Preston Municipal Natural Gas Dept	01-30-87	B		
ST87-1216 Northern Natural Gas Co	Wisconsin Southern Gas Co., Inc	01-30-87	B		
ST87-1217 Northern Natural Gas Co	Great Plains Natural Gas Co	01-30-87	B		
ST87-1218 Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	01-30-87	B		
ST87-1219 Northern Natural Gas Co	Northern States Power Co	01-30-87	B		
ST87-1220 Northern Natural Gas Co	Wisconsin Power & Light Co	01-30-87	B		

Docket No.[1] and Transporter/Seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (per/MMBTU)
ST87-1221 Northern Natural Gas Co	Enron Industrial Natural Gas Co	01-30-87	B		
ST87-1222 Northern Natural Gas Co	Lake Superior District Power	01-30-87	B		
ST87-1223 Northern Natural Gas Co	Midwest Gas Co	01-30-87	B		
ST87-1224 Transok, Inc	Shreveport Intrastate Gas Trans., Inc	01-30-87	C	06-29-87	21.75
ST87-1225 Transok, Inc	Peoples Natural Gas Co	01-30-87	C	06-29-87	26.25
ST87-1226 Transok, Inc	Natural Gas Pipeline Co. of America	01-30-87	C	06-29-87	26.25
ST87-1227 Tennessee Gas Pipeline Co	United Texas Transmission Co	01-30-87	B		
ST87-1228 Transwestern Pipeline Co	Southern California Gas Co	01-30-87	B		
ST87-1229 Transwestern Pipeline Co	Colony Pipeline Corp	01-30-87	B		
ST87-1230 Transwestern Pipeline Co	Coastal States Gas Transmission Co	01-30-87	B		
ST87-1231 Transwestern Pipeline Co	Southern California Gas Co	01-30-87	B		
ST87-1232 Superior Offshore Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1233 ANR Pipeline Co	Illinois Power Co	01-30-87	B		
ST87-1234 ANR Pipeline Co	Wisconsin Gas Co	01-30-87	B		
ST87-1235 ANR Pipeline Co	Texcol Gas Services, Inc	01-30-87	B		
ST87-1236 ANR Pipeline Co	Wisconsin Gas Co	01-30-87	B		
ST87-1237 ANR Pipeline Co	Wisconsin Public Service Co	01-30-87	B		
ST87-1238 ANR Pipeline Co	Wisconsin Public Service Co	01-30-87	B		
ST87-1239 ANR Pipeline Co	Wisconsin Public Service Co	01-30-87	B		
ST87-1240 ANR Pipeline Co	Michigan Gas Utilities	01-30-87	B		
ST87-1241 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1242 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1243 ANR Pipeline Co	Wisconsin Natural Gas Co	01-30-87	B		
ST87-1244 ANR Pipeline Co	Wisconsin Natural Gas Co	01-30-87	B		
ST87-1245 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1246 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1247 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1248 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1249 ANR Pipeline Co	Northern Indiana Fuel & Light Co	01-30-87	B		
ST87-1250 ANR Pipeline Co	Wisconsin Fuel & Light Co	01-30-87	B		
ST87-1251 ANR Pipeline Co	Southeastern Michigan Gas Co	01-30-87	B		
ST87-1252 ANR Pipeline Co	Wisconsin Natural Gas Co	01-30-87	B		
ST87-1253 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1254 ANR Pipeline Co	Wisconsin Southern Gas Co., Inc	01-30-87	B		
ST87-1255 ANR Pipeline Co	Wisconsin Gas Co	01-30-87	B		
ST87-1256 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1257 ANR Pipeline Co	Michigan Power Co	01-30-87	B		
ST87-1258 ANR Pipeline Co	Columbia Gas of Virginia, Inc	01-30-87	B		
ST87-1259 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1260 ANR Pipeline Co	Wisconsin Public Service Co	01-30-87	B		
ST87-1261 ANR Pipeline Co	Iowa Southern Utilities Co	01-30-87	B		
ST87-1262 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1263 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1264 ANR Pipeline Co	Cincinnati Gas & Electric Co	01-30-87	B		
ST87-1265 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1266 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1267 ANR Pipeline Co	Wisconsin Natural Gas Co	01-30-87	B		
ST87-1268 ANR Pipeline Co	Northern Indiana Fuel & Light Co	01-30-87	B		
ST87-1269 ANR Pipeline Co	Wisconsin Public Service Co	01-30-87	B		
ST87-1270 ANR Pipeline Co	Northern Indiana Public Service Co	01-30-87	B		
ST87-1271 ANR Pipeline Co	Northern Indiana Public Service Co	01-30-87	B		
ST87-1272 ANR Pipeline Co	V.H.C. Pipeline Co	01-30-87	B		
ST87-1273 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1274 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1275 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1276 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1277 ANR Pipeline Co	Michigan Consolidated Gas Co	01-30-87	B		
ST87-1278 ANR Pipeline Co	Wisconsin Power & Light Co	01-30-87	B		
ST87-1279 Natural Gas Pipeline Co of America.	Peoples Gas Light & Coke Co	01-30-87	B		
ST87-1280 United Gas Pipe Line Co	Yankee Pipeline Co	01-30-87	B		
ST87-1281 Transcontinental Gas Pipe Line Corp.	Texas Products Corp., Inc (TPC)	01-30-87	B		
ST87-1282 Panhandle Gas Co	Northern Illinois Gas Co	01-30-87	D		
Below is a petition for rate approval. It is noticed at this time to give interested parties the appropriate 150-day comment period.					
ST87-0868 Delhi Gas Pipeline Corp	Tennessee Gas Pipeline Co	01-27-87	C	06-26-87	21.00

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 87-5822 Filed 3-17-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of February 13 Through February 20, 1987

During the Week of February 13 through February 20, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 9, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 13 through Feb. 20, 1987]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 17, 1987	Winco, Inc., Alamosa, CO	KEE-0123	Exception to the reporting requirements. If granted: Winco, Inc. would not be required to file Form EIA-782-B, "Resellers/Retailers Monthly Petroleum Sales Report."
Feb. 18, 1987	Hahn Oil Company, Inc., Evansville, IN	KEE-0124	Exception to the reporting requirements. If granted: Hahn Oil Company, Inc. would not be required to file the EIA From 782B, Resellers/Retailer Monthly Petroleum Product Sales Report.
Feb. 19, 1987	Fulbright & Jaworski, Washington, DC	KFA-0080	Appeal of an Information request denial. If granted: The Feb. 4, 1987 Freedom of Information Request Denial issued by the Office of Petroleum Reserves would be rescinded, and Fulbright & Jaworski would receive access to DOE records concerning the May 22, 1986 Decision by the Secretary of Energy to reduce the production rates for crude oil produced from the Naval Petroleum Reserve Number 1.
Do	Petroleum Sales, Inc., Randleman, NC	KEE-0125	Exception to the reporting requirements. If granted: Petroleum Sales, Inc. would not be required to file Form 782-B, Resellers/Retailer Monthly Petroleum Product Sales Report."
Feb. 20, 1987	Graziano Oil Company, Inc., Watertown, CN	KEE-0126	Exception to the reporting requirements. If granted: Graziano Oil Company, Inc. would not be required to file certain EIA reporting forms.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund applicant	Case No.
10/29/86	Marine Petroleum Company	RF257-22
1/7/87	Mangum Oil & Gas Co	RF40-3657
2/9/87	Atlantic Richfield Corporation	RF??89-1
2/11/87	Salt River Project	RF290-1
2/11/87	Regional Transit Authority	RF272-367
2/11/87	Salt River Project	RF272-368
2/12/87	Clark & Ried Company, Inc	RF272-370
2/12/87	Assoc. Container Transportation	RF272-371
2/13/87 thru 2/20/87	Getty Refund Applications Received	RF265-437 thru RF265-497
2/13/86 thru 2/20/87	Mobil Refund Applications Received	RF225-10623 thru RF225-10670
2/13/87	Kidling Self Service	RF161-101
2/13/87	Deaver Grain Company, Inc	RF220-484
2/13/87	McGuire Oil Company, Inc	RF263-30
2/13/87	L. Bain	RF264-16
2/13/87	Abbey Transportation System	RF270-2474
2/13/87	City of Salem, Oregon	RF272-373
2/17/87	Kerners M59 & Dequindre	RF250-2707
2/17/87	Elg Enterprises Corp	RF40-3651
2/17/87	Caldo Oil Company, Inc	RF40-3652
2/17/87	Benjamin A. Franklin	RF40-3653
2/17/87	John S. Causey Dist., Inc	RF40-3654
2/17/87	Estes Oil Company, Inc	RF40-3655
2/17/87	Harvey Oil Company, Inc	RF40-3656
2/17/87	Bob's APCO	RF83-161
2/17/87	Money Saver Station	RF238-79
2/17/87	Baker's Marathon	RF250-2706
2/17/87	Bendetto Toti	RF276-14
2/17/87	Conoco, Inc	RF291-1
2/18/87	Dana Corporation	RF272-375
2/18/87	San Diego Transit Corporation	RF272-376
2/19/87	Stone Transport, Inc	RF270-2475
2/19/87	Utica Transit Authority	RF272-377
2/20/87	Barletta's Heating Oil	RF40-3658
2/20/87	Power-Oi Fuel Company	RF40-3659

[FR Doc. 87-5849 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of February 16 Through February 20, 1987

During the week of February 16 through February 20, 1987, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

March 9, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Morgan Oil Company, Cullman, Alabama, KEE-0112, reporting requirements

Morgan Oil Company filed for relief from the requirement to submit Forms EIA-782B, entitled "Reseller-Retailers' Monthly Petroleum Product Sales Report," and EIA-863, entitled "Petroleum Product Sales Report," and EIA-863, entitled "Petroleum Product Sales Indentification Survey." Morgan argued that its reporting requirement is burdensome because the firm has only one regular office employee who must extract manually from the firm's records the information necessary to complete the Forms. The Department of Energy found, however, that the cost to the firm of filing the Forms is no greater than the cost to other reporting firms. Consequently, on February 19, 1987, the DOE issued a Proposed Decision and Order denying Morgan's request for relief.

Pickett Oil Company, Inc., Sheridan, Indiana, KEE-0113, reporting requirements

Pickett Oil Company, Inc. filed for relief from the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." Pickett argued that the monthly reporting requirement is burdensome because the firm employs only a part-time bookkeeper. The Department of Energy found, however, that the cost to the firm of filing the Form is no greater than the cost to other reporting firms. Consequently, on February 19, 1987, DOE issued a Proposed Decision and Order denying Pickett's request for relief.

Rob-Lu Oil, Company, Inc., Clarksburg, West Virginia, Kee-0109, reporting requirements

Rob-Lu Oil Company, Inc. filed an Application for Exception from the requirement to file Form EIA-821, entitled "Annual Fuel Oil and Kerosene Sales Report." On February 18, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request should be denied.

[FR Doc. 87-5850 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Period of February 2 through February 20, 1987

During the period of February 2 through February 20, 1987, the notice of objection to the proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

March 9, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Tampinex Oil International, Ltd., Houston, Texas, KRO-0430, crude oil.

On February 20, 1987, The State of California filed a Notice of Objection to a Proposed Remedial Order which the Houston Office of the Economic Regulatory Administration (ERA) issued to the Tampinex Oil International, Ltd. (Tampinex), 811 Dallas, Houston, Texas 77002 on January 22, 1987. In the PRO the ERA found that during the period January 1978 through December 1980, Tampinex violated 10 CFR 212.186, 205.202 and 210.62(c) with regard to certain crude oil resales.

According to the PRO, the violation resulted in $689,997.00 of overcharges.

[FR Doc. 87-5851 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

Southwestern Power Administration

Intent and Request for Additional Proposals; Grand River Dam Authority; Fort Gibson Dam Units 5 and 6, Oklahoma

AGENCY: Department of Energy, Southwestern Power Administration.

ACTION: Notice of intent to tentatively select the Grand River Dam Authority as the financial sponsor and preference customer of the proposed Fort Gibson Dam Units 5 and 6 Hydroelectric Power Project in Oklahoma and a request for additional proposals.

SUMMARY: The Grand River in eastern Oklahoma has been extensively developed by construction of Grand Lake, Lake Hudson and Fort Gibson Lake. This system of projects provides flood control, hydroelectric power, and recreation opportunities. It also provides incidental water supply, and aids navigation downstream on the Arkansas River. The Grand Lake and Lake Hudson, located upstream of Fort Gibson Lake, are under the jurisdiction of the Grand River Dam Authority (GRDA), which is an agency of the State of Oklahoma. Fort Gibson Lake was constructed and is operated by the U.S. Army Corps of Engineers (Corps). The Corps is responsible for the flood control operation in all three lakes under terms of the Flood Control Act of 1944. Hydroelectric power generated at Grand Lake and Lake Hudson is marketed by GRDA. The hydroelectric power generated at Fort Gibson Lake is marketed by the Southwestern Power Administration (SWPA).

The existing Fort Gibson Dam and Lake, completed in 1953, was authorized to provide flood control and

hydroelectric power. The existing powerhouse was constructed with four generating units. These units each have an installed capacity of 11,250 kilowatts (kW), for a total installed capacity of 45,000 kW. The units normally produce at an overload capacity of 50,000 kW. The four units generate an average of 206,400,000 kWh of energy annually based on a system operation of Grand Lake, Lake Hudson and Fort Gibson Lake. At the time of construction, provisions were included to add two additional units.

The proposed addition of two hydroelectric power generating units (units 5 and 6) is generally described in the Corps' Tulsa District document entitled "Fort Gibson Lake, Oklahoma, Powerhouse Extension" dated July 1982 and authorized for construction by Pub. L. No. 99-662. The proposed units will have an approximate installed capacity of 11,250 kW each for a total 22,500 kW (no additional capacity will be available at overload). The two units will generate an average of about 38,900,000 kWh of energy annually. The total installed capacity at Fort Gibson with all six units would be about 67,500 kW which would generate on the average about 245,300,000 kWh of energy. The estimated cost of the two additional units is $26.1 million (based on October 1985 price levels) which includes an allowance for inflation during the construction period. The annual operation, maintenance, major replacement, and administrative costs are estimated at $290,000 for the two additional units and $1,230,000 for all six units.

GRDA has proposed to provide financing to the Federal government for the construction of Units 5 and 6 at Fort Gibson Dam during the period of construction, to pay their own debt service, and to pay one third of the total annual operation, maintenance, and major replacement assigned to hydroelectric power at Fort Gibson Dam. The project would be designed, constructed, and Federally-owned and operated by the Corps. The power and energy would be marketed by SWPA.

Jointly, the Corps and SWPA have tentatively selected GRDA to provide the financing for the proposed Units 5 and 6 at Fort Gibson Dam based on a proposal submitted by that agency. Subsequent proposals received prior to April 17, 1987, will be considered in the final selection.

GRDA has proposed that they schedule and receive the power and energy produced at all six units at Fort Gibson Dam and return to SWPA two thirds of the average annual energy produced at Fort Gibson Dam at a rate of 50,000 kW on SWPA's demand from the system of GRDA. The proposal would be for a 50 year period after Units 5 and 6 are declared in commercial operation. SWPA has determined that GRDA qualifies for preference, in accordance with section 5 of the Flood Control Act of 1944, and has tentatively selected that agency to schedule and receive the power and energy produced at Fort Gibson Dam in accordance with the aforesaid terms. Subsequent proposals for that scheduling and receiving of power and energy received prior to April 17, 1987, will be considered in the final selection. Questions and/or comments are invited.

For further information about the proposed project financing, contact: Weldon Gamel, Chief, Engineering Division, Tulsa District, Corps of Engineers, P.O. Box 61, Tulsa, OK 74121-0061.

For further information about the proposed marketing of power and energy at the project contact: Francis Gajan, Director of Power Marketing, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101.

Ronald H. Wilkerson,

Administrator, Southwestern Power Administration.

[FR Doc. 87-5852 Filed 3-17-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180716; FRL-3169-5]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA, in accordance with 40 CFR 166, has (1) granted specific exemptions to the States of Arizona, California, and Missouri and the United States Department of Agriculture (USDA/APHIS) for control of various pests, (2) granted a quarantine exemption to the California Department of Food and Agriculture, and (3) denied a request for specific exemption from the California Department of Food and Agriculture. Also, EPA announces that a crisis exemption was initiated by the Florida Department of Agriculture and Consumer Services. The exemptions, issued during the month of December, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, quarantine, and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact people: By mail:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis, Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Department of Agriculture for the use of fluazifop-butyl on garlic to control grasses; December 16, 1986 to April 15, 1987. (Stan Austin)

2. California Department of Food and Agriculture for the use of prometryn on parsley to control malva, burning nettle, and shepherd's purse; December 11, 1986 to June 30, 1987. (Libby Pemberton)

3. California Department of Food and Agriculture for the use of fluazifop-butyl on garlic to control grasses; December 16, 1986 to July 31, 1987. (Stan Austin)

4. California Department of Food and Agriculture for the use of metalaxyl on strawberries to control *Phytophthora fragariae;* December 19, 1986 to March 30, 1987. (Jim Tompkins)

5. California Department of Food and Agriculture for the use fluazifop-butyl on dry bulb onions to control rabbitfoot grass, and barnyard grass; December 2, 1986 to July 1, 1987. (Jim Tompkins)

6. California Department of Food and Agriculture for the use of aluminum phosphide on stored wild rice to control lesser grain borer and Indian meal moth; December 5, 1986 to December 31, 1986. California has initiated a crisis exemption for this use. (Stan Austin)

7. California Department of Food and Agriculture for the use of fluazifop-butyl on carrots to control little seed canary grass, rabbitfoot grass, and wild oats; December 24, 1986 to March 31, 1987. (Libby Pemberton)

8. Missouri Department of Agriculture for the use of metalaxyl on blueberries to control phytophthora blight; December 11, 1986 to October 31, 1987. (Stan Austin)

9. United States Department of Agriculture (USDA/APHIS), for the use of naled on non-food sites to control oriental fruit flies; December 17, 1986 to December 16, 1987. Solicitation of public comment was published in the **Federal Register** of December 10, 1986 (51 FR

44513), no comments were received. The exemption was granted to prevent the significant economic problems that would result to the fruit and vegetable industries of California if the oriental fruit fly was to become established. (Jim Tompkins)

10. United States Department of Agriculture (USDA/APHIS), for the use of methyl bromide on oak logs for export to control oak wilt; December 5, 1986 to December 4, 1987. (Libby Pemberton).

EPA issued a quarantine exemption to the California Department of Food and Agriculture for the use of malathion and protein bait on various raw agricultural commodities to control fruit flies (various species); December 2, 1986 to December 1, 1989. California initiated a crisis exemption for this use on pomegranates. (Jim Tompkins)

A crisis exemption was initiated by the Florida Department of Agriculture and Consumer Services on December 17, 1986, for the use of iprodione on carrots to control alternaria leaf blight. The need for this program will end on June 15, 1987. (Jim Tompkins)

EPA has denied a request for a specific exemption from the California Department of Food and Agriculture for the use of hydrogen cyanamide on table grapes as a growth regulator. A notice of receipt of this request was published in the **Federal Register** of November 24, 1986 (51 FR 42295). The Agency has denied this request because an emergency condition was not demonstrated and the possibility of adverse effects to an endangered species in the Coachella Valley exists. (Libby Pemberton)

Authority: 7 U.S.C. 136.

Dated: March 9, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 87-5562 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30261A; FRL-3169-2]

American Hoechst Corp.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by American Hoechst Corp, to register the pesticide product Whip 1 EC Herbicide containing an active ingredient not included in any previously registered product pursuant to the provision of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, TS-767C, Environmental Protection Agency, 1921 Jefferson Davis, Highway, Arlington, VA, 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 26, 1985 (50 FR 52849), which announced that American Hoechst Corp., Routes 202-206 North Somerville, NJ 08876, had submitted an application to register the pesticide produce Whip 1 EC Herbicide containing the active ingredient fenoxaprop-ethyl (±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate at 12.5 percent; not included in any previously registered product.

The application was approved on January 30, 1987 as Whip 1 EC Herbicide for selective postemergence annual and perennial grass control in rice and soybeans. The product was assigned EPA Registration No. 8340-23.

The Agency has considered all required data on the risks associated with the proposed use of fenoxaprop-ethyl (±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of fenoxaprop-ethyl (±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on fenoxaprop-ethyl (±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS-767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St. SW., Washington, DC 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approval label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703-557-3262). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St. SW., Washington, DC 20460.

Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: March 4, 1987.

Douglas D. Campt,

Director, Office of Peticide Programs.

[FR Doc. 87-5561 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180723; FRL-3167-1]

Receipt of Application for an Emergency Exemption From Wisconsin to Use Mancozeb; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Wisconsin Department of Agriculture, Trade and Consumer Protection (hereafter referred to as "Applicant") to use the fungicide mancozeb to treat 2,000 acres of cultivated American ginseng (*Panax quinquefolium* L.) to control foliar infection caused by *Phytophthora cactorum* and stem blight caused by *Alternaria panax*. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and solicit public comment before making the decision whether to grant the exemption.

DATE: Comments should be received on or before April 2, 1987.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180723" should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C) Office of Pesticide

Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236 Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Jim Tompkins, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit use of the fungicide mancozeb (CAS 8018-01-7) available as Dithane M-45, EPA Reg. No. 707-78. Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant was granted emergency exemptions for use of Dithane M-22 (maneb) on ginsegn to control *Alternaria* in 1984 and 1985, but not in 1986. An emergency exemption for use of iprodione on ginseng to control *Alternaria* was granted in 1986. The Applicant indicates that a population of *Alternaria*, located in the ginseng growing area in Wisconsin, developed resistance to iprodione. In addition, an epidemic of *Phytophthora* foliar infection ocurred in 1986, despite the use of iprodione. According to the Applicant, without effective control, ginseng growers could experience a 25 to 50 percent crop loss due to *Phytophthora* leaf blight and root rot and a 50 to 100 percent crop loss if *Alternaria can not be effectively managed.*

Dithane M-45 will be applied at weekly intervals by ground application equipment at a rate of 1.6 pounds active ingredient (2 pounds product) per acre during the growing season (late May through September). Dithane M-45 will be applied only during the first three growing seasons. No applications are to be made within one-year of harvest.

A Decision Document (Final Resolution of Rebuttable Presumption Against Registration) for the ethylene bisdithiocarbamate fungicides (EBDC's), which includes mancozeb, was issued October 27, 1982 (47 FR 47669). The Agency, in its final resolution of the RPAR, made a decision to return the EBDC's to the registration process provided certain label modifications were made and that data would be developed to further evaluate these chemicals. The potential risks of teratogenicity and thyroid toxicity to applicators were adequately reduced by requiring protective clothing. A better assessment of the potential for oncogenicity, mutagenicity, teratogenicity and thyroid effects to man from dietary exposure was deferred until data, to be identified in the Registration Standard, were available to the Agency.

This notice does not constitute a decision by EPA on this application. The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review (40 CFR 166.24(a)(5)). The risks considered in that document which could be similar to the risks posed by this proposed use are oncogenicity; teratogenicity; and thyroid toxicity. Also of potential concern is mutagenicity. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above. The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Dated: February 27, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-5285 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

[PF-476; FRL-3167-2]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Registration Division (TS-767C), Attn: (Product Manager (PM) named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460,

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
Dennis Edwards (PM-12).	Rm. 202, CM #2, 703-557-2386.	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202.
George LaRocca (PM-15).	Rm. 204, CM #2, 703-557-2400.	Do.
Lois Rossi (PM-21).	Rm. 227, CM #2, 703-557-1900.	Do.
Hoyt Jamerson (PM-43).	Rm. 716, CM #2, 703-557-2310.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food and feed additive (FAP) petitions as follows proposing the establishment and/or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

1. *FAP 7H5526.* Union Carbide Agricultural Products Co., Inc., P.O. Box 12014 Research Triangle Park, NC 27709. Proposes amending 21 CFR Parts 193 and 561 by establishing regulations permitting residues of the insecticide carbaryl (l-naphthyl *N*-methylcarbamate) in or on the following commodities:

Part 193 (food commodities)	Parts per million
Citrus molasses	15
Citrus oil	450
Citrus peel	15
Corn, field (flour)	10
Corn, field (meal)	10
Grape juice	15
Sorghum grain (bran)	25
Tomato, processed	30

Part 561 (feed commodities)	Parts per million
Alfalfa meal	150
Apple pomace (dry)	25
Beans, snap (cannery waste)	20
Corn, sweet (cannery waste)	35
Grape pomace (dry)	15
Grape pomace (wet)	15
Raisin waste	30
Rice hulls	25
Soybean hulls	10
(PM 12)	

2. *PP 7F3490.* Union Carbide Co., Inc. Proposes amending 40 CFR 180.169 by estabishing a tolerance for residues of the insecticide carbaryl in or on sugar beet (roots) at 0.3 ppm. The proposed analytical method for determining residues is high pressure liquid chromography. (PM 12).

3. *PP 7F3488.* ICI Americas Inc., Agricultural Chemical Division, Concord Pike & New Murphy Road, Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerances for the insecticide (±)-alpha-cyano-(3-phenoxyphenyl)methyl(±)-cis-3-(*Z*-2-chloro-3,3,3-trifluoroprop-2-enyl)-2,2-dimethylcyclo-propanecarboxylate in or on soybeans at 0.01 ppm, poultry meat at 0.01 ppm, poultry fat at 0.01 ppm, and poultry meat byproducts at 0.01 ppm. The proposed analytical method for determining residues is gas liquid chromatography. (PM 15)

4. *FAP 7H5527.* Chevron Chemical Co., 15049 San Pablo Avenue, P.O. Box 4010, Richmond, CA 94804–0010. Proposes amending 21 CFR Part 561 by establishing a regulation to permit residues of the insecticide fenpropathrin (alpha-cyano-3-phenoxy-benzyl-2.2.3.3-tetramethyl cyclopropanecarboxylate) in or on apple pomace (dry) at 50 ppm. (PM 15).

5. *PP 7F3485.* Chevron Chemical Co. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the insecticide fenpropathrin (alpha-cyano-3-phenoxy-benzyl-2,2,3,3-tetramethyl cyclopropanecarboxylate) in or on the following commodities:

Commodities	Parts per million (ppm)
Apples	8.0
Cattle fat	0.8
Cattle meat	0.1
Cattle meat byproducts (mbyp)	0.1
Eggs	0.05
Milk	0.1
Milk fat	0.6
Pears	5.0
Poultry	0.05
Poultry fat	0.05
Poultry mbyp	0.05

The proposed analytical method for determining residues is gas liquid chromatograph with hydrogen-flame detector and recorder. (PM 15)

6. *FAP 7H5529.* BASF Corp., Chemical Division, 100 Cherry Hill Road, Parsippany, NJ 07054. Proposes amending 21 CFR Parts 193 and 561 by establishing regulations permitting the combined residues of the fungicide 3-(3-5-dichlorophenyl)5-ethenyl-5-methyl-2,4 oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on grape pomace (dry) at 42.0 ppm (Part 193) and raisins at 30.0 ppm (Part 561). (PM–21)

7. *FAP 7H5531.* BASF Corp. Proposes amending 21 CFR Part 561 by establishing a regulation to permit the residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on dried hops at 40 ppm. (PM–21)

8. *FAP 7H5532.* Ciba-Geigy Corp., Agricultural Division P.O. Box 18300, Greensboro, NC 27419. Pronoses amending 21 CFR Part 561.273 by establishing a regulation to permit the combined residues of the fungicide metalaxyl [*N*-(2-6-dimethylphenyl)-N-(methoxyacetyl)alanine methyl ester], and *N*-(2-hydroxy-methyl-6-methylphenyl)-*N*-(methoxyacetyl) alanine methyl ester in or on dried hops at 10.0 ppm. (PM–21).

9. *FAP 6H5499.* Ciba-Geigy Corp. In the Federal Register of April 30, 1986 (51 FR 16106), EPA issued a notice which announced that Ciba-Geigy Corp. submitted FAP 6H5499 proposing the establishment of regulations in 21 CFR Parts 193 and 561 by permitting the combined residues of of the fungicide metalaxyl and its metabolites in or on the commodity dry tomato pomace at 20.0 ppm.

Ciba-Geigy Corp. has amended the petition by adding sugar beet molasses at 1.0 ppm. (PM–21).

10. *FAP 7H5528.* Interregional Research Project No. 4 (IR–4) National Director, Dr. R.H. Kupelian, New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903. Proposes amending 21 CFR 561.430 by establishing a regulation permitting the combined residues of the herbicide 2-[1-(ethoxyimino) butyl]-5-[2-(ethyl-thio) propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the herbicide) in or on the flax seed meal at 7.0 ppm. (PM–43).

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

Dated: March 2, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–5284 Filed 3–17–87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3170-4]

The Asbestos Hazard Emergency Response Act Negotiated Rulemaking Advisory Committee; Open Meeting

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA is giving notice of an open meeting of the Advisory Committee negotiating proposed regulations under the Asbestos Hazard Emergency Response Act (AHERA) of 1986.

The meeting is scheduled on Friday, March 27, 1987, at the National Education Association, 8th Floor Board Room, 1201 16th Street, NW., Washington, DC. The meeting will begin at 9:00 a.m. and will run until completion.

The purpose of this meeting is to continue working on the substantive issues the Committee has identified for resolution.

If interested in receiving more information, please contact Kathy Tyson at (202) 382–5475.

Dated: March 12, 1987.

John M. Campbell,

Acting Assistant Administrator.

[FR Doc. 87–5807 Filed 3–17–87; 8:45 am]

BILLING CODE 6560-50-M

[PF-478; FRL-3170-7]

Tolerance Petition for the Pesticide 3,6-Dichloro-2-Pyridinecarboxylic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice amends a pesticide petition proposing tolerances for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid (hereafter referred to as clopyralid) in or on certain agricultural commodities. This amendment increases the tolerance levels previously proposed.

ADDRESS: By mail, submit comments identified by the document control number [PF-478] at the following address: Information Services Section (TS-757C), (Attn: Product Manager (PM) 23), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. Written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail; Richard Mountfort, PM-23, Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued notices published in the Federal Register, which announced that Dow Chemical USA., P.O. Box 1706, Midland, MI 48640 had filed pesticide petition 1F2439 proposing tolerances for residues of the herbicide clopyralid in or on certain raw agricultural commodities as follows:

1. 45 FR 85153, December 24, 1980. Fat, meat, and meat byproducts (mbyp) of hogs and poultry at 0.05 part per million (ppm).

2. 48 FR 32078, July 13, 1983. Amended the proposed tolerances for the fat, meat, and mbyp of hogs to 0.1 part per million (ppm).

Dow Chemical has further amended the petition by increasing the tolerances for the above commodities to 0.2 ppm.

The proposed analytical method for determining residues is gas chromatography.

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

Dated: March 12, 1987.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-5808 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3170-2]

PSD Permit for the Palm Beach County Solid Waste Resource Recovery Facility Palm Beach County, FL

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Prevention of Significant Deterioration (PSD) permit issued to the Palm Beach County Solid Waste Authority on December 16, 1986, became effective on January 16, 1987. The permit was issued for the construction of two 700-ton-per-day, refuse-derived fuel (from municipal solid waste) incinerators which will produce steam for the generation of electricity.

DATE: This action is effective as of January 16, 1987, the effective date of the PSD permit. Construction must begin within eighteen (18) months of this date or the permit will become invalid.

ADDRESSES: Copies of the PSD permit, permit application, preliminary and final determinations are available for public inspection upon request at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Bureau of Air Quality Management, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the Environmental Protection Agency, Region IV, Air Programs Branch, at the Atlanta address given above, telephone (404) 347-2864; (FTS) 257-2864.

SUPPLEMENTARY INFORMATION: On April 24, 1985, the Palm Beach County Solid Waste Authority submitted an application to construct two 700-ton-per-day, refuse-derived fuel (from municipal solid waste) incinerators in Palm Beach County, Florida. The preliminary determination was issued by the Florida Department of Environmental Regulation (DER) on February 14, 1986, and the public comment period commenced on February 14, 1986. No comments were received. The final determination was issued on November 21, 1986, by the Florida DER. The Federal PSD permit was issued on December 16, 1986, and became effective on January 16, 1987. The effective date of this permit constitutes final agency action under 40 CFR and 124.19(f)(1) and Section 307 of the Clean Air Act, for purposes of judicial review. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 1987. This action may not be challenged later in proceedings to enforce its requirements (see § 307(b)(2)). If construction does not commence within eighteen (18) months after the effective date, by July 16, 1988, or if construction is not completed within a reasonable time, the permit shall expire and the authorization to construct shall become invalid.

(Sections 160-169 of the Clean Air Act (42 U.S.C. 7470-7479).)

Dated: March 6, 1987.

Jack E. Ravan,

Regional Administrator.

[FR Doc. 87-5806 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240073; FRL-3170-8]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 26 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving

that information will be published in the Federal Register.

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Owen F. Beeder, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC.

Office location and telephone number: Rm. 716A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7893).

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in September through December of 1986. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Arizona

EPA SLN No. AZ 86 0006. USDA/APHIS. Registration is for Compound DRC-1339 98% Concentrate to be used to control ravens and crows. February 14, 1986.

EPA SLN No. AZ 86 0007. American Cyanamid Co. Registration is for Cythion RTU to be used on Cotton to control aphids, boll weevils, grasshoppers, leafhoppers, etc. June 30, 1986.

EPA SLN No. AZ 86 0008. Gowan Co. Registration is for Prokil Dimethoate to be used on grapes to control grape leafhoppers and Pacific spider mites. June 30, 1986.

EPA SLN No. AZ 86 0009. Weed Science Corp. Registration is for Seed Stop to be used as preemergence herbicide that is applied to the ground to control weeds before they emerge. September 9, 1986.

EPA SLN No. AZ 86 0011. Fertizona. Registration is for Ridomil/Bravo 81W to be used on pumpkins to control phytophthora. August 22, 1986.

EPA SLN No. AZ 86 0013. Leffingwell. Registration is for CF 125 to be used on Trees (ornamental olive) to control pollen for fruit prevention. September 10, 1986.

EPA SLN No. AZ 86 0014. ICI Americas, Inc. Registration is for Ambush 2E and Ambush 25W to be used on seed alfalfa to control lygus. September 10, 1986.

EPA SLN No. AZ 86 0015. Ciba-Geigy Corp. Registration is for Ridomil 2E to be used on head lettuce to control downy mildew. September 19, 1986.

EPA SLN No. AZ 86 0016. Phoenix Vegetable Distributors. Registration is for Ciba-Geigy D-Z-N Diazinon 50W to be used on Chinese cabbage to control aphids. October 30, 1986.

EPA SLN No. AZ 86 0017. Phoenix Vegetable Distributors. Registration is for Prokil Ethyl Methyl Parathion 6-3E to be used on Chinese cabbage to control aphids. October 30, 1986.

EPA SLN No. AZ 86 0018. Phoenix Vegetable Distributors. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. October 30, 1986.

EPA SLN No. AZ 86 0019. Phoenix Vegetable Distributors. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. October 30, 1986.

EPA SLN No. AZ 86 0020. Pasquinelli Produce. Registration is for Prokil Ethyl Methyl Parathion 6-3E to be used on Chinese cabbage to control aphids. November 18, 1986.

EPA SLN No. AZ 86 0021. Pasquinelli Produce. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. November 18, 1986.

EPA SLN No. AZ 86 0022. Pasquinelli Produce. Registration is for Ciba-Geigy D-Z-N Diazinon 50W to be used on Chinese cabbage to control aphids. November 18, 1986.

EPA SLN No. AZ 86 0024. FMC Corp. Registration is for Funginex 1.6 EC to be used on asparagus to control asparagus rust. December 29, 1986.

EPA SLN No. AZ 86 0026. Fairfield American Corp. Registration is for Pyrenone Crop Spray to be used on herbs and spices to control cabbage loopers and white flies. December 16, 1986.

EPA SLN No. AZ 86 0027. Weed Science Corp. Registration is for Strikeout Concentrate to be used on trees, shrubs, bushes, etc. to control grass. December 22, 1986.

EPA SLN No. AZ 86 0028. Weed Science Corp. Registration is for Strikeout to be used on trees, shrubs, bushes, etc. to control grass. December 22, 1986.

Arkansas

EPA SLN No. AR 86 0009. Fermenta Animal Health Co. Registration is for Terminator (cattle ear tag) to be used on dairy cattle to control horn flies. October 24, 1986.

California

EPA SLN No. CA 86 0047. Yolo County Agr. Comm. Registration is for Roundup to be used to control volunteer wheat on fallow ground that will be planted to melons. August 27, 1986.

EPA SLN No. CA 86 0049. Monterey County. Registration is for Lorsban 4E to be used on bok choy and broccoli to control cabbage root maggot. August 22, 1986.

EPA SLN No. CA 86 0051. San Diego County Cooperative Extension. Registration is for Pro-Gibbs 4% Liquid Concentrate to be used on lines to delay rind coloration. October 10, 1986.

EPA SLN No. CA 86 0055. FMC Corp. Registration is for COCS Copodust to be used on quince to control fireblight. August 25, 1986.

EPA SLN No. CA 86 0056. Yolo County Agr. Commissioner. Registration is for Roundup to be used on cucurbit vegetables, peppers, small fruits, and berries and directed seed tomatoes to control field bindweeds. September 12, 1986.

EPA SLN No. CA 86 0057. Humboldt County Agr. Comm. Registration is for Kocide 101 to be used on lilies to control leaf spot. October 7, 1986.

EPA SLN No. CA 86 0058. Riverside County Agr. Comm. Registration is for Clean Crop Thiodan to be used on Chinese broccoli to control aphids, flea beetles, cabbage worms, and loopers. October 17, 1986.

EPA SLN No. CA 86 0059. Riverside County Agr. Comm. Registration is for Lannate to be used on Chinese broccoli to control loopers, beet army worms, and cabbage worms. October 17, 1986.

EPA SLN No. CA 86 0061. Riverside County Agr. Commissioner. Registration is for Bravo 500 to be used on Chinese broccoli and Chinese cabbage (tight-headed varieties only) to control downy mildew. October 8, 1986.

EPA SLN No. CA 86 0062. Monterey County. Registration is for Dacthal W-75 to be used on Chinese broccoli and Chinese cabbage (tight-headed varieties only) to control annual grasses and broadleaf weeds. September 25, 1986.

EPA SLN No. CA 86 0063. Monterey County. Registration is for Phosdrin 4 EC to be used on Chinese broccoli to control green peach aphids. September 29, 1986.

EPA SLN No. CA 86 0064. Fresno Ag. Technology. Registration is for Rovral Fungicide to be used on dry bulb onions to control botrytis leaf blight and purple blotch. October 6, 1986.

EPA SLN No. CA 86 0065. Rohm & Haas Co. Registration is for Kerb 50W to be used on lettuce to control annual grasses and broadleaf weeds. October 20, 1986.

EPA SLN No. CA 86 0006. Santa Cruz County Agr. Extension. Registration is for Lorsban 50W to be used on brassica leafy vegetables to control cabbage aphids, beet armyworms, and imported cabbage worms. October 27, 1986.

EPA SLN No. CA 86 0067. Jackson & Perkins Co. Registration is for Bacti-Chlor to be used on rose, crape myrtle, and lilac cuttings to control agrobacterium. November 3, 1986.

EPA SLN No. CA 86 0068. Alameda County. Registration is for Morestan 25% WP to be used on greenhouse roses to control powdery mildew. December 10, 1986.

EPA SLN No. CA 86 0071. Monterey County. Registration is for Botran 75W to be used on sweet anise (fresh leaves and stock only) to control pink rot. November 25, 1986.

EPA SLN No. CA 86 0072. Yolo County Agr. Comm. Registration is for Dual 8E to be used on grain lupine to control annual grasses. December 2, 1986.

EPA SLN No. CA 86 0073. Monterey County. Registration is for Phosdrin 4 EC to be used on raddicchio to control green peach aphids. October 8, 1986.

Connecticut

EPA SLN No. CT 86 0002. Mobay Corp. Registration is for Mesurol 75% WP to be used on turf as a repellent to control geese. October 1, 1986.

Florida

EPA SLN No. FL 86 0011. Vertac Chemical Corp. Registration is for Vertac Formula 40 to be used to control preharvest drop on citrus. August 4, 1986.

EPA SLN No. FL 86 0012. Great Lakes Chemical Co. Registration is for Meth-O-Gas 100 and Metho-O-Gas to be used on tobacco to control drugstore beetles, tobacco beetles, tobacco moths, etc. August 4, 1984.

EPA SLN No. FL 86 0013. Fermenta Animal Health Company. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn and face flies. December 5, 1986.

Hawaii

EPA SLN No. HI 86 0002. Hawaii Anthurium Industry Assn. Registration is for Lannate L to be used on anthuriums to control thrips. September 29, 1986.

EPA SLN No. HI 86 0003. Hawaii Assoc. of Nurserymen. Registration is for chlorox liquid bleach to be used on walks, benches, tools, and empty plant containers in nurseries and other quarantine areas to control plant parasitic nematodes. November 5, 1986.

Idaho

EPA SLN No. ID 86 0021. Janssen Pharmaceutica. Registration is for Fundal 10 EC to be used on sweet corn as seed treatment fungicide (export). November 5, 1986.

EPA SLN No. ID 86 0022. Gustafson, Inc. Registration is for Flo-Pro IMZ to be used on sweet corn as seed treatment fungicide (export). November 5, 1986.

EPA SLN No. ID 86 0023. Gustafson, Inc. Registration is for Gustafson Captan 400 to be used on chick peas as seed treatment to control and protect against molds and fungi. December 17, 1986.

EPA SLN No. ID 86 0024. Gustafson, Inc. Registration is for Gustafson Captan to be used on chick peas as seed treatment to control and protect against mold and fungi. December 17, 1986.

Illinois

EPA SLN No. IL 86 0002. Borderland Products, Inc. Registration is for Borderland Black to be used to repel rodents in newly planted no-till corn. June 9, 1986.

Indiana

EPA SLN No. IN 86 0001. Sandoz Crop Protection Corp. Registration is for Banvel to be used on field corn and sorghum for preharvest use for control of hemp dogbane. October 9, 1986.

Louisiana

EPA SLN No. LA 86 0009. Betz Entec, Inc. Registration is for Betz Entec 361 to be used to control algae in decorative fountains, water basins, lagoons, and other decorative systems. September 29, 1986.

EPA SLN No. LA 86 0010. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn flies. November 17, 1986.

Montana

EPA SLN No. MT 86 0007. FMC Corp. Registration is for Furadan 4F to be used on wheat to control grasshoppers. August 21, 1986.

EPA SLN No. MT 86 0008. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn flies. November 13, 1986.

Nebraska

EPA SLN No. NE 86 0011. Platte Chemical Co. Registration is for Clean Crop Diazinon 14–G to be used on winter wheat to control white grubs. October 2, 1986.

EPA SLN No. NE 86 0012. Platte Chemical Co.. Registration is for Clean Crop Diazinon AG–500 to be used on winter wheat to control white grubs. October 2, 1986.

EPA SLN No. NE 86 0013. Cornbelt Chemical Co. Registration is for Cornbelt Diazinon 14–G to be used on winter wheat to control white grubs. October 2, 1986.

EPA SLN No. NE 86 0014. Cornbelt Chemical Co. Registration is for Cornbelt Diazionon AG–500 to be used on winter wheat to control white grubs. October 2, 1986.

EPA SLN No. NE 86 0015. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn flies. December 18, 1986.

Nevada

EPA SLN No. NV 86 0008. Drexel Chemical Co. Registration is for Drexel Dynamyte 5 to be used for preharvest desiccation of alfalfa, trefoil, and clover grown for seed only. August 28, 1986.

EPA SLN No. NE 86 0009. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn and face flies. December 3, 1986.

New Jersey

EPA SLN No. NE 86 0012. E.I. DuPont de Nemours. Registration is for Dupont Sinbar and DuPont Karmex to be used on blueberries for selective weed control. September 18, 1986.

EPA SLN No. NJ 86 0014. Mobay Corp. Registration is for Furadan 4F to be used on strawberries to control root weevils. October 24, 1986.

New Mexico

EPA SLN No. NM 86 0006. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn flies. November 19, 1986.

North Carolina

EPA SLN No. NC 86 0008. Gustafson, Inc. Registration is for Vitavax 75–Captan DCNA 60–20–Blend to be used on peanut seed and seedlings to control disease caused by seed rot and damping off. November 26, 1986.

EPA SLN No. NC 86 0009. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on

dairy cattle to control horn and face flies. November 26, 1986.

North Dakota

EPA SLN No. ND 86 0003. Mobay Corp. Registration is for Furadan 4F to be used on small grains to control grasshoppers. August 27, 1986.

EPA SLN No. ND 86 0004. Y-Tex Corp. Registration is for Max-Con Ear Tag to be used on cattle to control flies, ticks, and lice. December 22, 1986.

EPA SLN No. ND 86 0005. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on cattle to control flies, etc. December 29, 1986.

Oklahoma

EPA SLN No. OK 86 0003. Ciba-Geigy Corp. Registration is for Dual 8E to be used on cotton to control certain weeds. August 5, 1986.

EPA SLN No. OK 86 0004. Ciba-Geigy Corp. Registration is for Ridomil 2E to be used on spinach to control white rust. August 26, 1986.

EPA SLN No. OK 86 0005. Shell Chemical Co. Registration is for Bladex 90–DF to be used on winter wheat to control broadleaf weeds and grasses. August 26, 1986.

EPA SLN No. OK 86 0006. Shell Chemical Co. Registration is for Bladex 80W to be used on winter wheat to control weeds. August 26, 1986.

EPA SLN No. OK 86 0007. Pestcon Systems, Inc. Registration is for Fumitoxin Aluminum Phosphide Tablets and Pellets to control Africanized honeybees and bees infested with trachael mites in beehives, supers, and other beekeeping equipment. October 7, 1986.

EPA SLN No. OK 86 0008. Pestcon Systems, Inc. Registration is for Fumitoxin Aluminum Pellets to control Africanized honeybees, bees infested with trachael mites in beehives, supers, and other beekeeping equipment. September 29, 1986.

EPA SLN No. OK 86 0009. Mobay Corp. Registration is for Sencor 4F to be used on winter wheat to control weeds. November 10, 1986.

EPA SLN No. OK 86 0010. Mobay Corp. Registration is for Sencor 75% DF to be used on winter wheat to control weeds. November 10, 1986.

Oregon

EPA SLN No. OR 86 0007. Champion International Corp. Registration is for Garlon–4 to be used on forest lands to control broad leaf weeds. September 8, 1986.

EPA SLN No. OR 86 0008. Hopkins Agr. Chem. Co. Registration is for Hopkins Basamid Granular to be used on soil treatment to control weed seeds in various crops. August 14, 1986.

EPA SLN No. OR 86 0009. Unocal Chemicals Div. Registration is for N-Tac Desiccant to be used on potatoes to control potato vine desiccation. September 10, 1986.

EPA SLN No. OR 86 0010. E.I. DuPont de Nemours. Registration is for DuPont Glean for crop rotation intervals for ryegrass and clover. October 13, 1986.

EPA SLN No. OR 86 0011. E.I. DuPont de Nemours. Registration is for DuPont Finesse for crop rotation intervals for ryegrass and clover. October 13, 1986.

Pennsylvania

EPA SLN No. PA 86 0005. B.F. Goodrich Co. Registration is for Promac System 2000 PB for mine acid control on active mine sites. July 31, 1986.

EPA SLN No. PA 86 0006. B.F. Goodrich Co. Registration is for Promac Systems 2000 PN for mine acid formation control on active mine sites. July 31, 1986.

EPA SLN No. PA 86 0007. B.F. Goodrich Co. Registration is for Promac System 200 SB for mine acid formation control on active mine sites. July 31, 1986.

EPA SLN No. PA 86 0008. B.F. Goodrich Co. Registration is for Promac System 2000 PY for mine acid formation control on active mine sites. July 31, 1986.

EPA SLN No. PA 86 0009. Prentiss Drug & Chemical Co. Registration is for Prentox Vapon 4E to be used on mushrooms to control phorid flies in mushroom houses. November 24, 1986.

EPA SLN No. PA 86 0010. Cedar Chemical Corp. Registration is for Cedar General Weed to be used on potatoes to control vines. December 22, 1986.

South Dakota

EPA SLN No. SD 86 0005. Mobay Chemical. Registration is for Furadan 4F to be used on small grains to control grasshoppers. August 13, 1986.

EPA SLN No. SD 86 0006. Monsanto Agricultural Co. Registration is for Roundup to be used for annual weed control in fallow land. November 26, 1986.

EPA SLN No. SD 86 0007. Sandoz Crop Protection Corp. Registration is for Banvel to be used on field corn and sorghum to control hemp dogbane. November 24, 1986.

EPA SLN No. SD 86 0008. Y-Tex Corp. Registration is for Max-Con Insecticide Ear Tag to be used on cattle to control horn flies, face flies, and ticks. November 26, 1986.

EPA SLN No. SD 86 0009. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn and face flies. November 26, 1986.

Tennessee

EPA SLN No. TN 86 0003. Fermenta Animal Health Co. Registration is for Terminator Cattle Ear Tag to be used on dairy cattle to control horn flies. October 17, 1986.

Texas

EPA SLN No. TX 86 0008. Ciba-Geigy Corp. Registration is for Ridomil 5G to be used on spinach to control white rust. September 2, 1986.

EPA SLN No. TX 86 0009. Shell Chemical Co. Registration is for Bladex 80W to be used on winter wheat to control weeds. September 5, 1986.

EPA SLN No. TX 86 0010. Shell Chemical Co. Registration is for Bladex 90–DF to be used on winter wheat to control weeds. September 5, 1986.

EPA SLN No. TX 86 0011. Ant Fire, Inc. Registration is for Earthfire Vaporizing Fluid Formula 1 for control and eradication of the Texas leaf cutting ant (Atta Texana). December 3, 1986.

Utah

EPA SLN No. UT 86 0008. Orco, Inc. Registration is for Patrol to be used to control jackrabbits and meadow mice in postharvest acreage. September 5, 1986.

Vermont

EPA SLN No.VT 86 0003. Hopkins Agr. Chemical. Registration is for Ramik Green to be used for control of powdery mildew on sour cherries. (Transfer EPA SLN VT 84 0003 from Velsicol to Hopkins). July 29, 1986.

Virginia

EPA SLN No. VA 86 0007. Gustafson, Inc. Registration of for Vitavax 75-Capton DCNA 60–20 Blend to be used on peanut seed and seedlings to control disease caused by seed rot and damping off. December 16, 1986.

EPA SLN No. VA 86 0008. Fermenta Animal Health Co. Registration is for Terminator Ear Tag to be used on dairy cattle to control horn and face flies. December 16, 1986.

Washington

EPA SLN No. WA 86 0030. PBI/Gordon Corp. Registration is for Hi-Dep to be used as broadleaf herbicide for fallow land and stubble to be planted to wheat only. August 18, 1986.

EPA SLN No. WA 86 0031. Unocal Chemical Div. Registration is for N-Tac Desiccant to be used on potatoes to control potato vines. September 4, 1986.

EPA SLN No. WA 86 0033. Hopkins Agr. Chemical Co. Registration is for

Ramik Brown to be used on small grains to control meadow voles. September 30, 1986.

EPA SLN No. WA 86 0034. Rohm & Haas Co. Registration is for Kerb 50 W to be used for weed control in fallow land to be rotated to grass cover crops. October 27, 1986.

EPA SLN No. WA 86 0035. Rohm & Haas Co. Registration is for Kerb 50 W to be used for weed control in fallow land to be rotated to grass cover crops. October 27, 1986.

(Sec. 24 as amended, 92 Stat 835 (7 U.S.C. 136).)

Dated: March 4, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-5809 Filed 3-17-87; 8:45am]

BILLING CODE 6560-50-M

[PF-479; FRL-3171-8]

BASF Corp.; Pesticide Tolerance Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of a pesticide petition by the BASF Corporation proposing the increase of a tolerance for residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites in or on the commodity sugar beet tops.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor PM-25), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and phone number: Room 253, CM#2, 1921 Jefferson Davis Hwy, Arlington, VA, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP) 6F3405 from BASF Corporation, P.O. Box 181, 100 Cherry Hill Road, Parsippany, NJ 07054, proposing to amend 40 CFR 180.412 by increasing the established tolerance for the combined residues of the herbicide 2-[(1-ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the parent) in or on the commodity sugar beet tops from 0.2 part per million (ppm), to 3.0 ppm.

The proposed analytical method for determining residues is gas chromatography using a sulfur-specific flame photometric detector.

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

Dated: March 13, 1987.

Edwin F. Tinsworth,

Director, Registration, Division, Office of Pesticide Programs.

[FR Doc. 87-5908 Filed 3-17-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Donovan Burke and Wood River Public Broadcasting Corp.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Donovan Burke, Sun Valley, ID.	BPH-850712MR	87-49
B. Wood River Public Broadcasting Corporation, Sun Valley, ID.	BPED-850712YC	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading, Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standard issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-5797 Filed 3-17-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Victor Federal Savings and Loan Assoc., Muskogee, OK; Appointment of Receiver

Notice is hereby given that pursuant to the authoraity contained in section 5 (d) (6) (A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464 (d) (6) (A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Victor Federal Savings and Loan Association, Muskogee, Oklahoma, on March 13, 1986.

Dated: March 13, 1987.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-5829 Filed 3-7-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 87-4]

California Shipping Line, Inc. v. Korea Shipping Corp.; Filing of Complaint and Assignment

Notice is given that a complaint filed by California Shipping Line, Inc. (CSL) against Korea Shipping Corporation (KSC) was served March 12, 1987. CSL alleges that KSC has violated sections 8(c) (by refusing to make available to CSL the essential terms of three service contracts), and 10(b)(12) (by subjecting CSL to an unreasonable refusal to deal or to any undue or unreasonable

prejudice or disadvantage), Shipping Act of 1984.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by March 14, 1988, and the final decision of the Commission shall be issued by July 14, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 87-5792 Filed 3-17-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citizen's First Bancorp, Inc., 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 or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 7, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens First Bancorp, Inc.*, Union City, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Obion County, Union City, Tennessee.

2. *First City Corporation Employee Stock Ownership Trust*, Fort Smith, Arkansas; to become a bank holding company by acquiring 26.95 percent of the voting shares of First City Corporation, Fort Smith, Arkansas, and thereby indirectly acquire The City National Bank of Fort Smith, Fort Smith, Arkansas. Comments on this application must be received by April 6, 1987.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *North Star Holding Company, Inc.*, Jamestown, North Dakota; to become a bank holding company by acquiring 74.89 percent of the voting shares of Stutsman County State Bank, Jamestown, North Dakota.

Board of Governors of the Federal Reserve System, March 12, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-5750 Filed 3-17-87; 8:45 am]

BILLING CODE 6210-01-M

Carlos R. Leffler et al.; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 2, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Carlos R. Leffler*, Richland, Pennsylvania; to acquire 2.050 percent of the voting shares of United National Bancorporation, Huntingdon, Pennsylvania, and thereby indirectly acquire Unitas National Bank, Willow Hill, Pennsylvania.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *David Egge*, Carlos, Minnesota; to acquire 50 percent of the voting shares of Carlos Bancshares, Inc., Carlos, Minnesota, and thereby indirectly acquire First State Bank of Carlos, Carlos, Minnesota.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Wilfred Holce/Holce Logging Co., Inc.*, Vernonia, Oregon; to acquire 29.6 percent of the voting shares of Farmers and Merchants Bank, Forest Grove, Oregon.

Board of Governors of the Federal Reserve System, March 12, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-5751 Filed 3-17-87; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Exceptions to Regulations To Permit the Use of Travel Warrants by the Department of Defense

AGENCY: Office of Transportation Audits, GSA.

ACTION: Notice.

SUMMARY: This exception authorizes the Department of Defense (DOD) to utilize travel warrants in time of national emergency. Under the provision of 41 CFR 101-41.003, DOD is granted an exception to the use of Government Transportation Requests (SF 1169) for the purchase of Government Transportation.

This exception is subject to the following conditions:

(a) All official travel shall be purchased in accordance with 41 CFR 101-41.203 except, in the event of a national emergency, the movement of: (1) Individual members of the reserve components who are not assigned to organized units of the Ready Reserve; (2) military retirees liable for active duty; and (3) Standby Reservists.

(b) Exceptional travel (para. (a)) may be purchased through the use of a Military Emergency Travel Warrant.

(c) Documentation, payment and audit of Military Emergency Warrants will be governed by policies and procedures contained in the Federal Property

BEST COPY AVAILABLE

Management Regulations 41 CFR Part 101-41.

(d) Travel Warrants must contain, as a mimimum, the following information: origin and destination city and state, traveler's name, carrier's name, serial number of both the Travel Warrant and applicable ticket, ticket issue date, ticket value, and "Bill Charges To" address.

(e) Eact Travel Warrant must contain a statement that expired or altered Travel Warrants should not be honored.

(f) This exception applies to all DOD components, and only one travel warrant format for excepted travel (Para. (a)) is authorized.

Effective date. This exception is effective immediately.

Expiration date. This document expires on August 31, 1988.

Dated: February 27, 1987.

Donald C.J. Gray,

Commissioner, Federal Supply Service.

[FR Doc. 87-5764 Filed 3-17-87; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Boards of Scientific Counselors; Meetings

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the agency's Boards of Scientific Counselors. These meetings will be open for discussion of administrative announcements and program developments. The boards will be performing reviews and evaluations of intramural projects and individual staff scientists and will not be open to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552 (b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee name: Board of Scientific Counselors, NIAAA.

Date and time: April 13-14: 9:00 a.m.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference Room 7, Bethesda, Maryland 20892.

Status of meeting: Open—April 13: 9:00-9:30 a.m. Closed—Otherwise.

Contact: Boris Tabakoff, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 3C103, Bethesda, Maryland 20892, (301). 496-8996.

Purpose: The Board provides expert advice to the Director, DICBR, NIAAA, and through him to the Director, NIAAA, on the alcohol intramural research program. This advice is derived from periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Committee name: Board of Scientific Counselors, NIDA.

Date and time: April 13-14: 9:30 a.m.

Place: Addiction Research Center, Conference Room, Baltimore, Maryland 21224.

Status of meeting: Open—April 13: 9:30-10:00 a.m. Closed—Otherwise.

Contact: Mary Phelps, Addiction Research Center, P.O. Box 5180 Baltimore, Maryland 21224. (301) 955-7594.

Purpose: The Board provides expert advice to the Director, NIDA, on the drug abuse intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained from Ms. Eileen Klavan, Acting Committee Management Officer, NIAAA, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4375; Ms. Camilla Holland, Committee Management Officer, NIDA, Room 16-22, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-1644.

Dated: March 13, 1987.

Brenda L. Williamson,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87-5802 Filed 3-17-87; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 86D-0405]

Metric Declaration of Quantity of Contents; Availability of Compliance Policy Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide 7150.17 entitled "Metric Declarations of Quantity of Contents on Product Labels." The metric guide describes approaches acceptable to FDA for the use of the metric system of weights and measures in declaring the net quantity of contents on the labels of FDA-regulated commodities. The agency is also announcing the availability of Fair Packaging and Labeling Act (FPLA) Manual Guide 7563.16, which has been revised to reference the metric guide. FDA Inspection Technical Guide No. 30, "The Nation Is Going Metric," is rescinded.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Single copies of the metric guide and the FPLA Manual Guide 7563.16 may be obtained from the Industry Programs Branch (HFF-326), Food and Drug Administration, Rm. 5425, 200 C St. SW., Washington, DC 20204. Written comments and requests for single copies should include the docket number which appears in the heading of this notice. (Send two self-addressed labels to assist in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0175.

SUPPLEMENTARY INFORMATION: The Metric Conversion Act of 1975 (80 Stat. 1007) was enacted to voluntarily increase the use of the metric system of weights and measures in the United States. In this notice, FDA is announcing the availability of a metric guide that discusses what FDA believes to be an acceptable approach to the use of the metric system in declaring the net quantity of contents on the labels of FDA-regulated commodities.

The metric guide discusses acceptable ways of applying metric units and symbols, unit prefixes, numerals, conversion factors, and rounding procedures to product labeling. The metric guide also contains examples of appropriate ways to express declarations of net quantity of contents with both metric an inch-pound statements.

FDA is also making available Fair Packaging and Labeling Manual Guide 7563.16, which has been revised to reference the metric guide. In addition, the agency has rescinded Inspection Technical Guide No. 30 because it contains metric guidance that is superseded by the metric guide.

Requests for single copies of the metric guide and revised FPLA Manual Guide 7563.16 should reference the docket number found in brackets in the headling of this document and should be

submitted in writing to the Industry Programs Branch (address above).

Interested persons may, at any time, submit to the Dockets Management Branch written comments regarding the metric guide. Such comments will be considered in determining whether amendments to or revisions of the metric guide are warranted. Two copies of any comments should 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 Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 2, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-5749 Filed 3-17-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-942-06-4520-12]

Colorado; Filing of Plats of Survey

March 9, 1987.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., March 9, 1987.

The plat, representing the dependent resurvey of a portion of the north and west boundaries and subdivisional lines, the survey of the subdivision of certain sections, and the remonumentation of certain original corners in T. 47 N., R. 11 W., New Mexico Principal Meridian, Colorado, Group Nos. 449 and 715, was accepted February 26, 1987.

This survey was executed to meet certain administrative needs of the U.S. Forest Service and this Bureau.

The supplemental plat showing the subdivision of original lots 2 and 3, section 1, T. 37 N., R. 9 W., New Mexico Principal Meridian, Colorado, was accepted February 26, 1987.

The supplemental plat was prepared to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87-5773 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-JB-M

[MT-020-07-4410-02]

Montana; Miles City District Office; Meeting

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Advisory Council will be held Wednesday, April 29, at 10 a.m. in the conference room at the Miles City District Office, Garryowen Road, West of Miles City, Montana 59301. The agenda is as follows:

—Introduction of new members and staff.
—Update on District budget and workland priorities.
—Update on status of weed control EIS.
—Vegetation monitoring program.
—Role of District in Charles M. Russell Wildlife Refuge Habitat Management Plans.
—Powder River Regional Social/Economic Supplemental EIS.
—Preference Right Lease Application update.
—Public comment opportunity.
—Consideration of resolution on reintroduction of the wolf into the Yellowstone National Park.
—Schedule next meeting.

The meeting is open to the public. The public may make oral statements before the Advisory Council or file written statements for the Council's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary Minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O Box 940, Miles City, Montana 59301.

Dated: March 10, 1987.

Sandra E. Sacher,

Associate District Manager.

[FR Doc. 87-5766 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-DN-M

[ORE-03587-F, ORE-012712, ORE-013107, ORE-017506; ORE-2945, ORE-5708, OR-7878; OR-943-07-4220-11: GP-07-118

Oregon; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service proposes that all or portions of seven separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, be opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughn, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503-231-6905).

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

Wallowa-Whitman National Forest

1. ORE 03587-F, Public Land Order No. 1144 of May 4, 1955.
   Hurricane Creek Campground, 335 acres.
   Located in Wallowa County, 7 miles south of Enterprise.
   T. 3 S., R. 44 E., W.M., Secs. 3, 10 and 15.
2. ORE 013107, Public Land Order No. 3230 of September 11, 1963.
   Mason Dam and Recreation Areas, 240 acres.
   Located in Baker County, 11 miles southwest of Baker.
   T. 10 S., R. 39 E., W.M., Secs. 19, 29 and 30.
3. ORE 017506, Public Land Order No. 4107 of October 26, 1966.
   White Pine Orchard, 70 acres.
   Located in Baker County, 18 miles northwest of Baker.
   T. 8 S., R. 37 E., W.M., Secs. 30.
4. OR 2945, Public Land Order No. 4557 of November 19, 1968.
   Woodley and River Campgrounds and Grande Ronde Guard Station Administrative Site, 296.27 acres.
   Located in Union County, 20 miles southwest of LaGrande.
   Tps. 5 and 6 S., Rgs. 35 and 36 E., W.M
5. ORE 012712, Public Land Order No. 3071 of May 7, 1963.
   Anthony Lakes Recreational Development Area, 640 acres.
   Located in Baker County, 25 miles southwest of LaGrande.
   T. 7 S., R. 37 E., W.M., Secs. 7 and 18.
   Boundary Campground, 50 acres.
   Located in Wallowa County, 7 miles south of Wallowa.
   T. 1 S., R. 42 E., W.M., Secs. 15 and 22.
   Fish Lake Campground, 170 acres.

Located in Baker County, 12 miles north of Halfway.
T. 6 S., R. 46 E., W.M., Secs. 16.
Grande Ronde Campground, 30 acres.
Located in Union County, 25 miles southwest of LaGrande.
T. 7 S., R. 36 E., W.M., Sec. 1.
Halfway Picnic Ground, 10 acres.
Located in Baker County, 4 miles northwest of Halfway.
T. 8 S., R. 45 E., W.M., Sec. 12.
Little Eagle Campground, . 39.75 acres.
Located in Baker County, 7 miles northwest of Halfway.
T. 8 S., R. 45 E., W.M., Secs. 6 and 7.
Marble Creek Picnic Area, 25 acres.
Located in Baker County, 9 miles west of Baker.
T. 9 S., R. 38 E., W.M., Sec. 12.
McBride Campground, 30 acres.
Located in Baker County, 10 miles northwest of Halfway.
T. 7 S., R. 45 E., W.M., Secs. 20, 28 and 29.
McCully Fork Campground, 55 acres.
Located in Baker County, 21 miles west of Baker.
T. 9 S., R. 36 E., W.M., Secs. 24.

6. OR 5706, Public Land Order No. 4820 of April 30, 1970.
North Powder Dam, Reservoir and Recreation Area, 157.28 acres.
Located in Baker County, 18 miles northwest of Baker.
T. 7 S., R. 38 E., W.M., Secs. 5.
7. OR 7878, Public Land Order No. 5362 of July 24, 1973.
Balm Creek Reservoir and adjoining recreation area, 136.06 acres.
Located in Baker County, 20 miles northwest of Baker.
T. 7 S., R. 43 E., W.M., Sec. 7.

The withdrawals currently segregate the lands from operation of the mining laws, but not the mineral leasing laws and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with a proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: February 27, 1987.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-5767 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-33-M

[(ORE 011667, ORE 012615, ORE 013902, ORE 016528) (OR 185, OR 616, OR 6999 (WASH)); OR-943-07-4220-11: GP-07-100)]

Oregon-Washington; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service proposes that all or portins of seven separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining, and where closed, be opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office P.O. Box 2965, Portland, Oregon 97208 (Telephone 503-231-6905).

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

Umatilla National Forest

1. ORE 011667, Public Land Order No. 2974 of March 18, 1963.
Desolation Butte Lookout Administrative Site, 10 acres.
Located in Grant County, Oregon, 35 miles northeast of John Day.
T. 8 S., R. 34 E., W.M., Sec. 30.
2. ORE 012615, Public Land Order No. 2876 of January 18, 1963.
Bull Prairie Recreation Area, 279.96 acres.
Located in Grant County, Oregon, 61 miles southwest of Pendleton.
T. 7 S., R. 26 E., W.M., Sec. 7
3. OR 013902, Public Land Order No. 3379 of April 8, 1964.
Woodland Park Campground, 20 acres.
Located in Union County, Oregon, 35 miles east of Pendleton.
T. 3 N., R. 38 E., W.M., Sec. 14.
Target Meadow Campground, 70 acres.
Located in Umatilla County, Oregon, 35 miles east of Pendleton.
T. 4 N., R. 38 E., W.M., Sec. 21.
Julbilee Campground, 160 acres.
Located in Union County, Oregon, 36 miles east of Pendleton.
T. 4 N., R. 39 E., W.M. Secs. 8 and 17.
Moon Meadows Recreation Area, 30 acres.
Located in Grant County, Oregon, 33 miles southeast of La Grande.
T. 7 S., R. 35 E., W.M., Sec. 30.
Spout Springs Lookout and Ski Area, 270 acres.
Located in Union County, Oregon, 36 miles east of Pendleton.
T. 3 N., R. 38 E., W.M., Secs. 3 and 10.
4. ORE 016528, Public Land Order No. 3900 of December 13, 1965.
Jubilee Addition, 140 acres.
Located in Union County, Oregon, 36 miles northeast of Pendleton.
T. 4 N., R. 39 E., W.M., Secs. 8 and 17.
5. OR 185, Public Land Order No. 4311 of October 31, 1967.
Madison Butte Administrative Site, 20 acres.
Located in Morrow County, Oregon, 50 miles southwest of Pendleton.
T. 5 S., R. 27 E., W.M., Sec. 29.
Ditch Creek Administrative Site, 10 acres.
Located in Morrow Country, Oregon, 48 miles southwest of Pendleton.
T. 5 S., R. 28 E., W.M., Sec. 21.
Tamarack Mountain Adminstrative Site, 20 acres.
Located in Grant County, Oregon, 75 miles southwest of Pendleton.
T. 8 S., R. 26 E., W.M. Sec. 18.
6. OR 616, Public Land Order No. 4278 of September 18, 1967.
Dredge Camp Recreation Site, 52.50 acres.
Located in Umatilla County, Oregon, 40 miles southwest of La Grande.
T. 6 S., R. 32 E., W.M., Secs. 35 and 36.
7. OR 6999(WASH), Public Land Order No. 5276 of October 11, 1972.
Pataha Bunchgrass Research Natural Area, 85 acres.
Located in Garfield County, Washington, 42 miles northeast of Walla Walla.
T. 9 N., R. 42 E., W.M., Sec. 1.

The withdrawals currently segregate the lands from operation of the mining laws, and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be

contiued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: February 27, 1987.

B. LaVelle Black

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-5768 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-33-M

[ORE-03468, ORE-03588-A, ORE-011667-A) (ORE-015246, OR 1579) OR-943-07-4220-11: GP-07-121)]

Oregon; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service proposes that all or portions of five separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, be opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office P.O. Box 2965, Portland, Oregon 97208 (Telephone 503-231-6905).

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

Ochoco National Forest

1. ORE 03468, Public Land Order No. 1144 of May 4, 1955.

Kings Reservoir Recreation Area, 240 acres.
Located in Crook County, 25 miles northeast of Prineville.
T. 13 S., R. 20 E., W.M. Sec. 21.

Winema National Forest

2. ORE 03588-A, Public Land Order No. 1867 of May 28, 1959

Roadside and Streamside zones, 1,643.95 acres.
Located in Klamath County, near Crater Lake.
T. 29 S., Rs. 5½, 6 and 7 E., W.M. T. 31 S., R. 7½ E., W.M. and
T. 32 S., Rs. 6 and 7½ E. W.M.

3. ORE 011667-A, Public Land Order No. 2974 of March 18, 1963.

Chemult Administrative Site, 65 acres.
Located in Klamath County, 1 mile northwest of Chemult.
T. 27 N., R. 8 E., W.M., Secs. 17 and 20.

Siuslaw National Forest

4. ORE 015246, Public Land Order No. 3650 of April 15, 1965.

Rocky Bend Campground, 10.10 acres.
Located in Tillamook County, 20 miles west of McMinnville.
T. 4 S., R. 7 W., W.M., Sec. 7.

Castle Rock Campground, 10 acres.
Located in Tillamook County, 8 miles southeast of Pacific City.
T. 4 S., R. 9 W., W.M., Sec. 32.

North Fork Siuslaw Campground, 15 acres.
Located in Lane County, 15 miles northeast of Florence.
T. 17 S., R. 10 W., W.M., Sec. 7.

South Lake Campground, 17.24 acres.
Located in Yamhill County, 14 miles east of Pacific City.
T. 4 S., R. 8 W., W.M., Secs. 19 and 30.

Big Elk Campground, 10 acres.
Located in Lincoln County, 20 miles southeast of Newport.
T. 12 S., R. 9 W., W.M., Sec. 12.

Launching Campground, 9.55 acres.
Located in Lincoln County, 14 miles southeast of Waldport.
T. 14 S. R. 9 W., W.M., Sec. 18.

Canal Creek Campground, 10 acres.
Located in Lincoln County, 9 miles southeast of Waldport.
T. 14 S., R. 10 W., W.M., Sec. 8.

Hebo Lake Campground, 17.5 acres.
Located in Tillamook County, 8 miles northeast of Pacific City.
T. 4 S., R. 9 W., W.M., Secs. 9 and 16.

Cape Perpetua Recreation Area Addition, 659.12 acres.
Located in Lane County, 3 miles southeast of Yachats.
T. 15 S., R. 12 W., W.M., Secs. 2, 3, 10 and 11.

Ocean Beach Campground, 22 acres.
Located in Lane County, 8 miles south of Yachats.
T. 16 S., R. 12 W., W.M., Sec. 10.

Drift Creek Loop Organization Camp and North Creek Campground, 90 acres.
Located in Lincoln County, 6 miles southeast of Lincoln City.
T. 8 S., R. 10 W., W.M., Sec. 4.

5. OR 1579, Public Land Order No. 4914 of October 5, 1970.

Illinois Bar Campground, 7.6 acres.
Located in Josephine County, 20 miles southwest of Grants Pass.
T. 37 S., R. 9 W., W.M., Sec. 8.

Store Gulch Campground Addition, 25 acres.
Located in Josephine County, 20 miles Southwest of Grants Pass.
T. 38 S., R. 9 W., W.M., Sec. 3.

Lower Rogue River Recreation Area Addition, 3.96 acres.
Located in Curry County, 23 miles northeast of Gold Beach. T. 35 S., R. 11 W., W.M., Sec. 29.

Chetco River Gorge Area, 180 acres.
Located in Curry County, 15 miles northeast of Brookings.
T. 38 S., R. 12 W., W.M., Secs. 28, 29, 32 and 33.

Long Ridge Seed Production Area, 100 acres.
Located in Curry County, 14 miles northeast of Brookings.
T. 38 S., R. 12 W., W.M., Secs. 27 and 34.

The withdrawals currently segregate the lands from operation of the mining laws, and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuations may present views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: March 2, 1987.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-5769 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-33-M

[ORE-03102-A, ORE-06373, ORE-010194; ORE-011885-A, ORE-013144, ORE-015656; OR-943-07-4220-11: GP-07-109]

Oregon; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service proposes that all or portions of six separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, be opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P. O. Box 2965, Portland, Oregon 97208, (Telephone 503-231-6905.

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Mangement Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

Rogue River National Forest

1. ORE 03102-A, Public Land Order No. 990 of August 11, 1954. Beaver Sulphur Campground, 60, acres. Located in Jackson County, 15 miles southwest of Medford. T. 40 S., R. 3 W., W.M., Secs. 2 and 10.

McKee Picnic Area, 10 acres. Located in Jackson County, 16 miles southwest of Medford. T. 40 S., R. 3 W., W.M., Sec. 4.

2. ORE 06373, Public Land Order No. 1918 of July 22, 1959. Steves Fork Recreation Area, 190 acres. Located in Josephine County, 26 miles southwest of Medford. T. 40 S., R. 5 W., W.M., Sec. 34.

.3 ORE 010194, Public Land Order No. 2668 of May 3, 1962. Applegate Campground, 40 acres. Located in Jackson County, 17 miles southwest of Medford. T. 40 S., R. 3 W., W.M., Sec. 5.

4. ORE 011885-A, Public Land Order No. 2775 of September 27, 1962. Wrangle Campground, 10 acres. Located in Jackson County, 10 miles south of Medford. T. 40 S., R. 1 W., W.M., Sec. 31.

Thompson Creek Campground, 5 acres. Located in Josephine County, 24 miles southwest of Medford. T. 40 S., R. 5 W., W.M., Sec. 12.

Sturgis Creek Campground, 18.79 acres. Located in Josephine County, 25 miles southwest of Medford. T. 40 S., R. 5 W., W.M., Sec. 13.

Star Ranger Station, 70 acres. Located in Jackson County, 15 miles southwest of Medford. T. 39 S., R. 3 W., W.M., Sec. 28.

5. Ore 013144, Public Land Order No. 3139 of July 30, 1963. Carberry Campground, 60 acres. Located in Jackson County, 21 miles southwest of Medford. T. 40 S., R. 4 W., W.M., Sec. 27.

6. Ore 015656, Public Land Order No. 3671 of June 10, 1965. Jackson Campground, 40 acres. Located in Jackson County, 13 miles southwest of Medford. T. 40 S., R. 3 W., W.M., Sec. 8.

The withdrawals currently segregate the lands from operation of the mining laws, and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the Lands be opened to operation of the public land laws generally, where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Dated: March 5, 1987.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-5771 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-33-M

[WASH-01599, WASH-03920, WASH-05318, WASH-01483-A, WASH-01483-B, WASH-04753; OR-943-07-4220-11: GP-07-122]

Washington; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service proposes that all or portions of six separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, be opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone 503-231-6905.)

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

Snoqualmie National Forest

1. WASH 01599, Public Land Order No. 1501 of September 9, 1957. Troublesome Creek Campground, 30 acres. Located in Snohomish County, 37 miles southeast of Everett. T. 28 N., 11 E., W.M., Sec. 21.

San Juan Campground, 80 acres. Located in Snohomish County, 39 miles southeast of Everett. T. 28 N., R. 11 E., W.M., Sec. 26.

Deception Falls Picnic Area, 134.45 acres. Located in King County, 50 miles southeast of Everett. T. 26 N., R. 12 E., W.M., Sec. 25; and T. 26 N., R. 13 E., W.M., Sec. 30.

2. WASH 03920, Public Land Order No. 2321 of April 4, 1961. Crystal Mountain Recreation Area, 3,950 acres. Located in Pierce County, 68 miles southeast of Olympia. T. 17 N., Rs. 10 and 11 E., W.M.

3. WASH 05318, Public Land Order No. 3607 of April 8, 1965. Crystal Mountain Recreation Area, 700 acres. Located in Pierce County, 66 miles southeast of Olympia. T. 17 N., Rs. 10 and 11 E., W.M.

Gifford Pinchot National Forest

4. WASH 01483-A, Public Land Order No. 2434 of July 13, 1961. Pine Creek Recreation Area, 320 acres. Located in Skamania County, 42 miles northeast f Vancouver. T. 7 N., R. 6 E., W.M., Sec. 26.

Cat Creek Recreation Area, 80 acres. Located in Skamania County, 72 miles northeast of Vancouver. T. 10 N., R. 9 E., W.M., Sec. 13.

Cora Recreation Area, 40 acres. Located in Lewis County, 75 miles northeast of Vancouver. T. 12 N., R. 8 E., W.M., Sec. 17.

Soda Springs Recreation Area, 240 acres. Located in Lewis County, 50 miles northwest of Yakima. T. 14 N., Rs. 10 and 11 E., W.M.

Mt. Baker National Forest

5. WASH 01483-B, Public Land Order No. 2434 of July 13, 1961. Gold Basin Recreation Area, 280 acres. Located in Snohomish County, 22 miles northeast of Everett. T. 30 N., R. 8 E., W.M., Secs. 13, 14, 23, and 24.

Silverton Recreation Area, 40 acres. Located in Snohomish County, 28 miles northeast of Everett. T. 30 N., R. 9 E., W.M., Sec. 23.

Okanogan National Forest

6. WASH 04753, Public Land Order No. 3335 of February 24, 1964. Flat Forest Campground, 10 acres. Located in Okanogan County, 33 miles northwest of Okanogan. T. 36 N., R. 21 E., W.M., Sec. 15.

Buck Lake Campground, 20 acres. Located in Okanogan County, 32 miles northwest of Okanogan. T. 36 N., R. 21 E., W.M., Sec. 22.

Foggy Dew Campground and Administration Site, 48.81 acres. Located in Okanogan County, 31 miles southwest of Okanogan. T. 31 N., R. 21 E., W.M., Secs. 10 and 11.

The withdrawals currently segregate the lands from operation of the mining laws, and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their

resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Dated: March 2, 1987.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-5770 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3018, Block 755, Mustang Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Freeport, Texas.

DATE: The subject DOCD was deemed submitted on March 9, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platforms and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that this Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 10, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-5761 Filed 3-17-87; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Mines

Revised Table on Prepublication Release of Statistical Information on Metals and Minerals; Availability of Nonfuels Minerals Data

AGENCY: Bureau of Mines; Interior.

SUMMARY: In view of the many changes in sources of nonfuels minerals data noted herein, a revision of the previous table was indicated. This version supersedes the table published in 48 FR 34351 on July 28, 1983. The Department of Energy has the responsibility for fuels data collection, analysis, and reporting.

FOR FURTHER INFORMATION CONTACT: Minerals Information: Ivette E. Torres, (202) 653-7067.

SUPPLEMENTARY INFORMATION: In adherence to section 103 on the Budget and Accounting Procedures Act of September 12, 1950 (31 U.S.C. 18b), and the 1978 Statistical Policy Handbook, maintained under authority of Executive Order 12318 of August 21, 1981, this notice provides public announcement of the time when monthly and quarterly data collected and published by the Bureau of Mines can be orally released to the public in response to telephone inquiries prior to publication.

The table below lists mineral commodities and indicates the frequency of the release of statistics by the Bureau of Mines, a description of the information contained in the release, the commodity specialist responsible for the report and the specialist's telephone number, and approximate number of weeks after the reporting period that information can be made available to the public in response to a telephone request.

Reports may be mailed to all persons asking to be placed on the mailing list for the reports. Requests for individual copies should be addressed to Publications Distribution, Bureau of Mines, P.O. Box 18070, Cochrans Mill Road, Pittsburgh, Pennsylvania 15236. Requests to receive reports on a recurring basis should be forwarded to the Division of Publications, Bureau of Mines, 2401 E Street, NW., Washington, DC 20241.

Dated: March 11, 1987.

Robert C. Horton,

Director, Bureau of Mines.

TIME OF AVAILABILITY OF MINERALS DATA AND COMMODITY SPECIALISTS WHO CAN BE CALLED BY TELEPHONE FOR SUCH DATA

Name of release	Description of information	Commodity specialist	Periodicity [1] (reference period of data)	Approximate number of weeks after reference period when data are available [2]
Aluminum Report	Primary Aluminum: Production, Imports, and Exports. Secondary Aluminum: Receipts, Consumption, Stocks, Imports and Exports of Scrap. Production, Shipments and Stocks of Alloys.	L. Baumgardner 202/634-1081.	Monthly	7 to 8
Antimony Report	Production, Imports Exports, Consumption and Stocks	P. Plunkert 202/634-1083.	Quarterly	7 to 8
Bauxite and Alumina Report.	Production and Imports of Bauxite, Imports and Exports of Alumina.	L. Baumgardner 202/634-1081.	do	7 to 8
Bismuth Report	Consumption, Imports, Exports	J. F. Carlin, Jr. 202/634-1073.	do	7 to 8
Cadmium Report	Production, Imports, Exports and Stocks	P. Plunkert 202/634-1083.	do	7 to 8

TIME OF AVAILABILITY OF MINERALS DATA AND COMMODITY SPECIALISTS WHO CAN BE CALLED BY TELEPHONE FOR SUCH DATA—Continued

Name of release	Description of information	Commodity specialist	Periodicity [1] (reference period of data)	Approximate number of weeks after reference period when data are available [2]
Cement Report	Shipments by Producing District, Shipments by State of Destination and Imports.	W. Johnson 202/634-1184.	Monthly	6 to 7
Chromium Report	Consumption and Stocks of Chromite. Production, Shipments and Stocks of Chromium Ferroalloys and Metal. Consumption by End Use and Consumer Stocks of Chromium Ferroalloys and Metal. Imports and Exports.	J. F. Papp 202/634-1028.	do	7 to 8
Cobalt Report	Production, Shipments, Consumption, Stocks and Imports of Cobalt Materials. Consumption of Cobalt by End Use.	W. S. Kirk 202/634-1928.	do	7 to 8
Copper Report	Mine, Smelter and Refinery Production. Secondary Production from Copper and Copper-Base Alloy Materials. Imports and Exports of Copper and Cooper Alloy Unwrought Materials. U.S. and LME Prices. Refined Copper, Blister, and Consumer Scrap Stocks. Consumption of Refined Copper and Secondary Materials. U.S. Copper Sulfate Statistics, Including Production, Shipments, Stocks, Imports and Exports are Reported Quarterly.	Janice Jolly 202/634-1053. D. L. Edelstein 202/634-1053.	do	8 to 9
Fluorspar Report	Production, Shipments, Imports, Consumption, Stocks, and Unit Value of Shipments.	L. Pelham 202/634-1177.	Quarterly	8 to 9
Gold and Silver Report	Mine Production, Imports and Exports. Refinery Production, Consumption, and Stocks are Reported Quarterly.	J. M. Lucas 202/634-1070. R. G. Reese 202/634-1054.	Monthly	7 to 8
Gypsum Report	Production, Imports and Exports. Sales by End Use and Sales by Sales Region.	L. L. Davis 202/634-1206.	do	8 to 9
Iron and Steel Scrap Report.	Receipts, Production and Stocks. Consumption of Scrap by Manufacturers of Pig Iron and Raw Steel, Manufacturers of Steel Castings, Iron Foundries and Miscellaneous Users of Scrap. Imports and Exports.	R. E. Brown 202/634-1752.	do	9 to 10
Iron Ore Report	Production, Shipments, Stocks, Imports, Exports and Consumption.	P. H. Kuck 202/634-1023.	do	7 to 8
Lead Report	Mine Production. Refinery Production and Stocks. Consumption and Stocks of Lead and Tin Based Scrap and Secondary Metal Recovered from Scrap. Imports and Exports. Consumption by End Use. Consumer Stocks.	W. D. Woodbury 202/634-1083.	do	7 to 8
Lime Report	Sales or Use by Type of Lime and by State. Imports	L. Pelham 202/634-1177.	do	6 to 7
Magnesium Report	Production, Shipments, Imports and exports	D. Kramer 202/634-1083.	Quarterly	7 to 8
Manganese Report	Consumption and Stocks of Manganese Ore. Consumption by End Use and Industry Stocks of Manganese Products. Imports and Exports.	T. S. Jones 202/634-7091.	Monthly	7 to 8
Mercury Report	Mine Production, Consumption, Producer and Consumer Stocks. Imports and Exports.	L. Carrico 202/634-1125.	Quarterly	7 to 8
Molybdenum Report	Production, Consumption and Stocks of Molybdenum Concentrates. Production, Shipments and Stocks of Molybdenum Products. Consumption by End Use and Consumer Stocks of Molybdenum Products. Imports and Exports.	J. W. Blossom 202/634-1021	Monthly	7 to 8
Nickel Report	Consumption, Consumer Stocks, Prices, Imports and Exports.	P. G. Chamberlain 202/634-1025.	do	7 to 8
Phosphate Rock Report.	Stocks, Receipts, Production and Disposition for all Types of Phosphate Rock Combined.	W. F. Stowasser 202/634-1190.	do	6 to 7
Platinum—Group Metals Report.	Refinery Production and Sales to Consuming Industries. Stocks Held by Refiners, Importers and Dealers. Imports and Exports.	J. R. Loebenstein 202/634-1058.	Quarterly	7 to 8
Selenium Report	Production, Shipments, Producer Stocks and Imports	N. L. Jensen 202/634-1058.	Monthly	7 to 8

TIME OF AVAILABILITY OF MINERALS DATA AND COMMODITY SPECIALISTS WHO CAN BE CALLED BY TELEPHONE FOR SUCH DATA—Continued

Name of release	Description of information	Commodity specialist	Periodicity [1] (reference period of data)	Approximate number of weeks after reference period when data are available [2]
Silicon Report	Production, Shipments, Producer Stocks, Consumption, Consumer Stocks, Imports and Exports. Includes Ferrosilicon.	C. R. Neuharth 202/634-1015.	......do	7 to 8
Sodium Compounds	Production of Natural Soda Ash and Natural Sodium Sulfate.	D. S. Kostick 202/634-1177.	......do	5 to 6
Sulfur Report	Frasch Sulfur and Recovered Sulfur: Production Shipments, Stocks, Apparent Consumption, Imports and Exports.	D. E. Morse 202/634-1190.	......do	6 to 7
Tin Report	Consumption, Tin Recovered from Scrap Processed, Imports. Stocks Held by Refineries, Importers and Jobbers. Prices of Tin.	J. F. Carlin, Jr. 202/634-1073.	......do	7 to 8
Titanium Report	Production and Consumption of Sponge Metal, Ingot, and Titanium Dioxide Pigments. Consumption of Scrap. Shipments of Mill Products and Castings. Stocks of Sponge Metal, Ingot Scrap, and Pigments. Imports of Concentrates, Pigments and Metal. Exports of Concentrates, Pigments and Metal.	L. E. Lynd 202/634-1073.	Quarterly	7 to 8
Tungsten Report	Stocks and Consumption of Tungsten Concentrates. Production and Producer Stocks of Tungsten Products. Consumption by End Use and Consumer Stocks of Tungsten Products. Imports and Exports.	G. R. Smith 202/634-1029.	Monthly	7 to 8
Vanadium Report	Consumption by End Use and Consumer Stocks of Vanadium Products. Imports and Exports..	H. E. Hilliard 202/634-1015.	......do	7 to 8
Zinc Report	Mine and Smelter Production. Consumption and Stocks of Slab Zinc. Zinc Prices. Stocks of Products from Zinc Scrap. Stocks, Receipts and Consumption of Zinc Scrap. Imports and Exports.	James H. Jolly 202/634-1063.	......do	7 to 8

[1] Reference Period of Data is for full calendar month or calendar quarter.
[2] Number of weeks after the end of calendar month or calendar quarter when summaries are available for the data on the period covered.

[FR Doc. 87-5813 Filed 3-17-87; 8:45 am]
BILLING CODE 4310-53-M

Bureau of Reclamation

Central Valley Project, California; Transfer of Administrative Jurisdiction of Land; Sugar Pine Reservoir, Auburn-Folsom South Unit; Correction

AGENCY: Bureau of Reclamation, Interior.

ACTION: Correction of legal land description.

SUMMARY: This document corrects an error in the legal description of the lands transferred by the Bureau of Reclamation to the jurisdiction of the U.S. Forest Service by the notice previously published in the Federal Register on Wednesday, August 28, 1985 (50 FR 34920) column 3.

A comma was omitted from the third line, first symbol group (italics added) of the legal land description, as follows:

T. 15 N., R. 10 E., NDM
Sec. 13, S½SW¼NE¼, SE¼NE¼, *S½ SW¼SW¼E½SW¼*, N½NW¼SE¼

The corrected description shall read as follows:

T. 15 N., R. 10 E., NDM
Sec. 13, S½SW¼NE¼, SE¼NE¼, *S½ SW¼SW¼, E½SW¼, N½NW¼SE¼*

Dated: March 11, 1987.

C. Dale Duvall,
Commissioner of Reclamation.

[FR Doc. 87-5777 Filed 3-17-87; 8:45 am]
BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 465]

Railroad Revenue Adequacy; 1985 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of 1985 determination of rail revenue adequacy.

SUMMARY: In Ex Parte No. 393, *Standards for Railroad Revenue Adequacy*, 364 I.C.C. 803 (1981), as modified in Ex Parte No. 393 (Sub-No. 1), *Standards for Railroad Revenue Adequacy*, served December 31, 1986, the Commission determined that a railroad would be considered revenue adequate under 49 U.S.C. 10704(a) if the railroad achieved a rate of return at least equal to the current cost of capital. This decision applies the rate of return standard, as more fully defined in Ex Parte No. 416, *Railroad Revenue Adequacy—1980 Determination*, 365 I.C.C. 285 (1981), to data for the year 1985. Using these data, the Commission has now determined that none of the 24 Class I freight carriers are revenue adequate.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275-7489.

SUPPLEMENTARY INFORMATION: To purchase a copy of the full decision, write to: T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423; or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

(49 U.S.C. 10704(a))

Decided: March 2, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Chairman Gradison commented with a separate expression. Commissioner Simmons dissented with separate expressions. Vice Chairman Lamboley dissented and will submit a separate expression at a later date.

Noreta R. McGee,
Secretary.

[FR Doc. 87-5782 Filed 3-17-87; 8:45 am]
BILLING CODE 7035-01-M

LIBRARY OF CONGRESS

Intent To Revise Procurement Procedures for the National Library Service for the Blind and Physically Handicapped

AGENCY: National Library Service for the Blind and Physically Handicapped Library of Congress.

Library Service for the Blind and Physically Handicapped (NLS) procurement procedures regarding the furnishing of books andother materials to blind and physically handicapped people. The proposal under consideration concerns the application of what has come to be called the "percent rule" when evaluating bids of commercial (for profit) firms against those of nonprofit agencies.

DATE: Comments from interested persons, organizations, agencies, or commercial firms regarding this procedure must be received no later than the close of business of May 1, 1987.

ADDRESS: Comments should be sent to Director, National Library Service for the Blind and Physically Handicapped, Library of Congress, Washington, DC 20540, ATTN: Ms. Kathleen Seguin.

FOR FURTHER INFORMATION CONTACT: Howard Blancheri, Executive Officer, Office of the Associate Librarian for Management, at 202-287-5560.

SUPPLEMENTARY INFORMATION: An increased appropriation to expand the program providing materials to blind people in 1938 "excited the desire of commercial recording firms to share our business. Most of these found that the prices charged by the nonprofit agencies were so low as to prevent successful competition with them." [Annual Report of the Librarian of Congress for the Fiscal Year Ending June 30, 1939, page 399.] Determined efforts by commercial firms, lengthy correspondence, and extensive sample testing materially held up the program that year.

As a result of this increased competition between profit and nonprofit entities, Congress passed the Act of June 7, 1939 (Pub. L. 76-118) to recognize the prior interest of the nonprofit agencies for the blind in the manufacture of both embossed (braille) and talking books. That legislation amended the Act of March 3, 1931 by adding the following language:

> In the purchase of such books, the Librarian of Congress, without reference to section 3709 of the Revised Statues (U.S.C., Title 41, section 5) shall give preference to nonprofit making institutions or agencies whose activities are primarily concerned with the blind, in all cases where the prices or bids submitted by such institutions or agencies are, by said Librarian, under all circumstances and needs involved, determined to be fair and reasonable.

In 1966, the basic Act, and the language of this provision were expanded to include "other physically handicapped persons." (Pub. L. 89-522, 80 Stat. 330; July 30, 1966)

The Library's analysis of the House Report (No. 456) which accompanied the 1939 legislation and introduced the "preference" and "fair and reasonable" provisions into the law reveals two clear purposes:

1. To give preference to nonprofit agencies primarily concerned with blind and other physically handicapped persons in order to insure the continued existence of such agencies and thus to insure continuous high-quality service to NLS patrons.

2. To insure that that prices charged by nonprofit agencies primarily concerned with blind and other physically handicapped persons are fair and reasonable, thereby preventing such agencies from becoming monopolistic and precluding over payment by the Government.

For many years, the nonprofit agencies were awarded contracts on the basis of preference without any discernable standard for determining that preference. Several years ago, the NLS requested the assistance of the Library's Internal Audit Office in determining a standard. After careful study, that Office recommended that a 10 percent price differential be applied (the "10 percent rule"). In the more recent years, NLS has met the two goals of the 1939 legislation by giving nonprofit agencies primarily concerned with blind and other physically handicapped persons a 10 percent advantage in competitive bids. That is, if their prices were within 10 percent of a commercial firm's prices, the nonprofit firms would be treated as the low bidders.

In 1986, a commercial braille production firm questioned the equity of the "10 percent rule," indicating that the percentage should be lowered. In response, NLS analyzed the prices received in braille book bids for fiscal years 1983 through 1987. A clear pattern resulted. Despite the 10 percent advantage given to nonprofit agencies primarily concerned with blind and other physically handicapped persons, the one commercial firm was low bidder in three of the five years and the second lowest bidder in another year. NLS concluded that the 10 percent advantage to nonprofit agencies has not unfairly impacted on commercial firms. At the same time, the 10 percent margin is low enough that it serves to hold down the prices of the nonprofit agencies primarily concerned with the blind and other physically handicapped persons.

It is further clear, however, that in future years the first goal of the 1939 legislation (set out above) may not be met if commercial firms have the capacity to produce most or all of the work being contracted. Therefore, the Library has developed the following proposed procedure:

1. The "10 percent rule," although apparently equitable, will be applied only as indicated below.

2. NLS will set aside (50%) percent of the work contracted each year in a specific area (e.g., braille books) as competitive only for nonprofit agencies primarily concerned with blind and other physically handicapped persons, when there is a prior determination by NLS that:

(a) The kind of work being contracted requires special knowledge, skills, techniques, or equipment related specifically to production of reading materials for blind and physically handicapped persons;

(b) Existing nonprofit agencies primarily concerned with the blind and other physically handicapped persons have the demonstrated ability to produce a quality product in a timely manner at the volume of work contemplated; and

(c) There are at least two (2) or more nonprofit bidders.

3. The remaining fifty (50%) percent of the contracted work each year will be open to competition from both the commercial (for profit) firms and the nonprofit agencies primarily concerned with blind and other physically handicapped persons, and the 10 percent rule will be applied.

4. Where NLS determines that the conditions for set aside, as set out in 2 above, are not present, all of the contracted work each year will be open to competition from both the commercial (for profit) firms and the nonprofit agencies primarily concerned with blind and other physically handicapped persons, and the 10 percent rule will be applied.

5. The procedures proposed are for the procurement of all reading materials produced for NLS in braille or recorded form.

6. NLS will continue to follow Federal procurement regulations and practices, assuring that bid prices are fair and reasonable.

Dated: March 12, 1987.

Glen A. Zimmerman,

Associate Librarian for Management Library of Congress.

[FR Doc. 87-5748 Filed 3-17-87; 8:45 am]

BILLING CODE 1410-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Record Keeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type submission, new, revision, or extension: Revision
2. The title of the information, collection: Licensing of Nuclear Power Plants Where State and/or Local Governments Decline to Cooperate in Offsite Emergency Planning, 10 CFR 50.47(e)
3. The form number if applicable: Not applicable
4. How often the collection is required: Only if an applicant for a full power operating license for a nuclear reactor is unable to get the cooperation of State and/or local governments in the development or implementation of offsite emergency plans. The submission, in that event, would be a one-time submission.
5. Who will be required or asked to report: See item 4 above.
6. An estimate of the number of responses: It is estimated that as many as 5 applicants may take advantage of this provision over the next several years. However, the actual number cannot be predicted with any accuracy.
7. An estimate of the total number of hours needed to complete the requirement or request; 800 per applicant
8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable
9. Abstract:

Proposed 10 CFR 50.47(e) permits that in the event State and/or local governments fail to cooperate with an applicant for a nuclear power reactor operating license in the development and implementation of offsite emergency plans, the applicant may submit to the NRC information concerning how it has modified its plans to compensate for the lack of cooperation.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Richard D. Otis, Jr., (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated at Bethesda, Maryland this 12th day of March 1987.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 87–5853 Filed 3–17–87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-192]

Finding of No Significant Environmental Impact Regarding Proposed Order Authorizing Dismantling of the Reactor and Disposition of Component Parts; the University of Texas at Austin

The Nuclear Regulatory Commission is considering issuance of an Order authorizing The University of Texas at Austin to dismantle their TRIGA reactor facility in Austin, Travis County, Texas and to dispose of the reactor components in accordance with the application for decontamination and dismantling dated May 3, 1985, as supplemented. Opportunity for hearing was afforded by the "Proposed Issuance of Orders Authorizing Disposition of Component Parts and Termination of Facility License", published in the **Federal Register** on May 31, 1985 at 50 FR 23207. No request for hearing or petition for leave to intervene was filed following notice of the proposed action.

Finding of No Significant Environmental Impact

The Commission has determined not to prepare an Environmental Impact Statement for the proposed action. The Commission has prepared an Environmental Assessment of this action, dated March 9, 1987, and has concluded that the proposed action will not have a significant effect on the quality of the human environment.

Summary of Environmental Impacts

The environmental impacts associated with the dismantling and decontamination operations are discussed in an Environmental Assessment associated with this action, dated March 9, 1987. The operations are calculated to result in a total radiation exposure of between 6.8 and and 13.4 person-rem to all operating personnel and less than 0.005 person-rem to the general public. The Environmental Assessment concluded that the operation will not result in any significant environmental impacts on air, water, land or biota in the area, and that an Environmental Impact Statement need not be prepared. These conclusions were based on the fact that all proposed operations are carefully planned and controlled, all contaminated components will be removed, packaged, and shipped offsite, and that the radiological effluent control procedures and systems ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR Part 20 and are as low as is reasonably achievable (ALARA).

For further details with respect to this proposed action, see the application for dismantling, decontamination and license termination dated May 3, 1985, as supplemented, the Environmental Assessment, and the Safety Evaluation prepared by the staff. These documents and this Finding of No Significant Environmental Impact are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTENTION: Director, Division of PWR Licensing-B.

Dated at Bethesda, Maryland this 9th day of March, 1987.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 87–5854 Filed 3–17–87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-192]

The University of Texas at Austin (The University of Texas TRIGA Reactor); Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated May 3, 1985, as supplemented, The University of Texas at Austin (the licensee) requested authorization to dismantle the TRIGA reactor facility, License No. R–92, located in Austin, Travis County, Texas and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Proposed Issuance of Orders Authorizing Disposition of Component Parts and Termination of Facility License" was published in the **Federal Register** on May 31, 1985 at 50 FR 23207. No request for hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment, dated March 9, 1987, for the proposed action. Based on that Assessment, the Commission has determined that the proposed action will not result in any significant environmental impact and that an Environmental Impact Statement need not be prepared.

Accordingly, the licensee is hereby ordered to dismantle the TRIGA reactor facility and dispose of the component parts following shipment of the fuel offsite in accordance with its dismantling plan and the Commission's rules and regulations.

After completion of the dismantling and disposal, the licensee will submit a report on the radiation survey it has performed to confirm that radiation and surface contamination levels in the facility area satisfy the values specified in the dismantling plan and in the Commission's guidance. Following an inspection by representatives of the Commission to verify the radiation and contamination levels in the facility, consideration will be given to issuance of a further order terminating Facility Operation License No. R-92.

For further details with respect to this action, see: (1) The application for authorization to dismantle the facility and dispose of component parts, dated May 3, 1985, as supplemented; (2) the Commission's related Safety Evaluation; and (3) the Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-B.

Dated at Bethesda, Maryland this 9th day of March, 1987.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 87-5855 Filed 3-17-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Services Policy Advisory Committee Advisory Committee for Trade Negotiations; Meetings and Determination of Closing of Meetings

The meetings of the Services Policy Advisory Committee to be held Wednesday, April 1, 1987, from 10:00 a.m. to 12:30 p.m.; the Advisory Committee for Trade Negotiations to be held Wednesday, April 8, 1987, from 1:30 p.m to 4:30 p.m. in Washington, DC, will include the development, review and discussion of current issues which influence the trade policy of the United States. Pursuant to section 2155(g)(2) of Title 19 of the United States Code, I have determined that these meetings will be concerned with matters the disclosures of which would seriously compromise the Government's negotiating objectives or bargaining positions.

Inquiries may be directed to Barbara W. North, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 87-5753 Filed 3-17-87; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 87-3-20; Dockets 42986 and 43525]

Application of LeasExpress Air, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding LeasExpress Air, Inc., fit and awarding it a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation. The order proposes to dismiss its application for a certificate to engage in foreign charter air transportation.

DATE: Persons wishing to file objections should do so no later than March 27, 1987.

ADDRESSES: Responses should be filed in Dockets 42986 and 43525 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Air Carrier Fitness Division, Office of Essential Air Services Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2343.

Dated: March 6, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-5779 Filed 3-17-87; 8:45 am]

BILLING CODE 4910-62-M

[Order 87-3-19; Docket 31901]

Proposed Revocation of the Section 418 Certificate of Brennan and Hargreaves, Inc.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Brennan and Hargreaves, Inc., issued under section 418 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than March 23, 1987.

ADDRESSES: Responses should be filed in Docket 31901 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590, and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Janet A. Davis, Air Carrier Fitness Division, P-47, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366-2341.

Dated: March 6, 1987.

Vance Fort,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-5778 Filed 3-17-87; 8:45 am]

BILLING CODE 4910-62-M

[Order 87-3-41; Docket No. 44663]

Aviation Proceedings; Transportes Aereos de Cabo Verde et al.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of order to show cause.

SUMMARY: DOT proposes to grant the following application for one year, subject to conditions:

Applicant: Transportes Aereos de Cabo Verde and Linhas Aereas de Mocambique.

Application Date: February 5, 1987; Docket 44663.

Authority Sought: Exemptions from section 402 of the Federal Aviation Act to permit TACV, using aircraft wet-leased from LAM, to provide once weekly scheduled foreign air transportation of persons, property, and mail between Ilha do Sal, Cape Verde, and Boston Massachusetts, commencing on or about April 1, 1987.

Objections

All interested persons having objections to DOT's tentative findings and conclusions that this application should be granted, as described in the order cited above, shall, No Later Than March 24, 1987, file a statement of such objections with DOT (original and 12 copies) and mail copies to the applicants. A statement of objections must cite the docket number and include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, an order will issue which will make final DOT's tentative findings and conclusions.

ADDRESS FOR OBJECTIONS: Docket 44663, Docket Section, C-55, Room 4107, Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Wellington, Licensing Division, P-45, Office of International Aviation Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-2388.

Dated: March 12, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-5786 Filed 3-17-87; 8:45 am]

BILLING CODE 4910-62-M

Privacy Act of 1974: Matching Program—Federal Aviation Administration General Air Transportation Records on Individuals/State of Florida Department of Highway Safety and Motor Vehicles Driver's License Records

AGENCY: Department of Transportation.

ACTION: Notification of Matching Program—Federal Aviation Administration General Air Transportation Records on Individuals/State of Florida Department of Highway Safety and Motor Vehicles Driver's License Records.

SUMMARY: The Department of Transportation is providing notice that the Office of Inspector General, working with the Federal Aviation Administration (FAA), intends to conduct a match of FAA General Air Transportation Records on Individuals, more specifically the Automated Medical Certification Data Base, with certain driver's license records from the State of Florida Department of Highway Safety and Motor Vehicles. A matching report is set forth below.

DATE: The match is projected to begin in March 1987.

FOR FURTHER INFORMATION CONTACT: John W. Lainhart IV, Director, Office of ADP Audits and Technical Support, Office of Inspector General, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, or call (202) 366-1496.

SUPPLEMENTARY INFORMATION: The Office of Inspector General, working with the FAA, plans to conduct a one-time match to assist the FAA in identifying pilots who have failed to declare their alcohol- or drug-related traffic convictions, if any, on medical certification applications. Set forth below is the information required by paragraph 5.f(1) of the Revised Supplemental Guidance for Conducting Matching Programs issued by the Office of Management and Budget, 47 FR 21656 (May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Dated: March 6, 1987.

Jon H. Seymour,

Assistant Secretary for Administration.

United States Department of Transportation Office of Inspector General Computer Matching Program

Report of Matching Program: Federal Aviation Administration General Air Transportation Records on Individuals/ State of Florida Department of Highway Safety and Motor Vehicles Driver's License Records

Authority:

The legal authority under which this match is being conducted is the Inspector General Act of 1978 (Pub. L. 95-452).

Program Description and Purpose:

The Office of Inspector General, working with the Federal Aviation Administration (FAA), plans to conduct a one-time match of FAA General Air Transportation Records on Individuals, more specifically the Automated Medical Certification Data Base, against State of Florida Department of Highway Safety and Motor Vehicles driver's license records involving alcohol- or drug-related traffic offenses. The purpose is to assist the FAA in identifying pilots who have failed to declare their alcohol- or drug-related traffic convictions, if any, on FAA Form 8500-8, Application for Airman Medical Certificate, which all pilots complete in connection with medical certification. The match results will be furnished to the FAA for possible administrative action and, depending on the circumstances, may also be referred to the Justice Department for possible criminal action. These cases may also be referred within the Department of Transportation for other administrative action. Match results will be reviewed and verified as necessary. Any action to suspend or revoke an airman's pilot or medical certificate will be taken in accordance with the procedures of the Federal Aviation Regulations, which include administrative appeal rights.

Records to be Matched:

Airmen medical certification records from the FAA General Air Transportation Records on Individuals System (DOT/FAA 847), 49 FR 15412 (April 18, 1984) against driver's license records involving alcohol- or drug-related traffic offenses from the State of Florida Department of Highway Safety and Motor Vehicles.

Period of Match:

This match is projected to begin in March 1987 and be completed within 9 months.

Safeguards:

Records used in this match will be maintained under strict security. Access to the computer files and printed information is restricted to only those persons associated with the matching program on a "need-to-know" basis. The records will be kept in secure areas and under the control of the Office of Inspector General. All computer files relating to the match will be protected by security systems to prohibit unauthorized access.

Retention and Disposition of Records:

Records on individuals produced in the match will only be maintained where the information meets predetermined criteria indicating a failure to declare alcohol- or drug-related convictions, if any, on medical certification applications. All records not required for administrative or criminal actions will be destroyed.

[FR Doc. 87-5780 Filed 3-17-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement; San Juan County, NM

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice EA/FONSI in lieu of EIS.

SUMMARY: The FHWA is issuing this notice as a follow-up to a notice which appeared in Federal Register/Vol. 50, No. 244/Thursday, December 19, 1985, regarding a proposed highway project along US 64 from Bloomfield to Blanco in San Juan County, New Mexico. This notice is being issued to advise the public that based on environmental studies and comments received as the result of circulating an environmental assessment and holding a public hearing for the proposed project, it has been determined that the preferred alternative will have no significant environmental impacts. Consequently, an environmental impact statement will not be prepared. A request for a Finding of No Significant Impact (FONSI) submitted by the New Mexico State Highway Department (NMSHD) on February 25, 1987 was approved March 20, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. S. A. Ball, Program Development Engineer, Federal Highway Administration, 117 U.S. Court House, P.O. Box 1088, Santa Fe, New Mexico 87504-1088, telephone (505) 988-6254, or Mr. W.L. Taylor, Environmental Section, New Mexico State Highway Department, 1129 Cerrillos Road, P.O. Box 1149, Santa Fe, New Mexico 87504-1149, telephone (505) 827-5232.

SUPPLEMENTARY INFORMATION: The Environmental Assessment for project RS-1525(7) was approved for circulation on November 7, 1986. Subsequent distribution included State and Federal agencies and all concerned and interested parties identified during project planning and design.

The assessment addressed the No-Build and two build alternates. With the No-Build Alternate US 64 would not be improved. This option would do nothing to improve the safety problems and roadway capacity on the existing facility.

The existing US 64 alignment was constructed to a design speed of only 35 miles per hour. Numerous horizontal and vertical deficiencies exist on the current roadway. Safety hazards include a reverse "S" curve east of Bloomfield and dip sections (rather then bridges) at Potter and Slane Canyons. Unrestricted access on Blanco Boulevard in Bloomfield has resulted in a dangerous mix of commercial activity heavy trucks, school pedestrian traffic and residential neighborhoods.

Two build alternates were selected for further study from an earlier Location Study Report. Alternates II and III were selected as the most viable to accomplish project needs. These two alternates were similar in utilization of an urban four-lane section in Bloomfield. This four-lane section would exit current US 64 at Soloman Drive and extend Broadway Boulevard east to the Bloomfield City Limit. The roadway would transition to tow lanes at this point with Alternates II and III on different alignments. Alternate II would curve northeast and tie into US 64 at the S curve. Alternate III would curve southeast and follow the San Juan River before joining Alternate II east of the S curve. From this point the alternates are identical to the west project limit at the US 64/NM 511 junction.

Alternate II was chosen as the preferred Alternate because it provides better traffic relief in Bloomfield and is less damaging from an environmental viewpoint. Alternate III was rejected, in part, because this laternate would displace 27 acres of wetlands along the San Juan River.

A Location Public Hearing for the Bloomfield to Blanco project was held at Bloomfield High School on December 17, 1986. Approximately 70 people reviewed the project during the informal review and presentations. No objections to project implementation were expressed. A great majority of those present endorsed Alternate II as the preferred alternate. Resolutions from the City of Bloomfield and San Juan County also have been received endorsing Alternate II for construction.

Several location variations of Alternate II were suggested in the area east of Bloomfield. These suggestions were analyzed in a subsequent study team meeting. The study team has decided that alternate II, as designed, is the best alignment possible. The NMSHD intends to abandon maintenance responsibility on unused portions of US 64. The city and county willingness to accept responsibility in exhange for overlay improvements is expressed in the resolutions.

Responses were received from two agencies to whom the assessment was circulated. The New Mexico Department of Game and Fish voiced several concerns and recommendations. Comments on construction scheduling, revegetation and activities in the San Juan River will be addressed in the design phase and the 404 permit application. The New Mexico Interstate Stream Commission also submitted comments and suggestions. These comments have been incorporated in the project report and file for technical accuracy. No agency responses expressed opposition to the project.

One lengthy comment was received from an affected landowner. The NMSHD response include clarification of document contents and additional right of way and access regulation information.

We believe that responses and additional location team study answer relevant concerns expressed. The selection of Alternate II for construction reflects the needs and wishes of the people in the project area. No other comments have been received from the public or agencies to whom the assessment was circulated.

In view of the above, the FHWA approved a request to process the Environmental Assessment as a "Finding of No Significant Impact" on March 10, 1987.

Issued on: March 10, 1987.

Anthony L. Alonzo,

Division Administrator Santa Fe, New Mexico

[FR Doc. 87-5763 Filed 3-7-87; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Tarrant County, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Tarrant County, Texas.

FOR FURTHER INFORMATION CONTACT: W.L. Hall, Jr., P.E., District Engineer, Federal Highway Administration, Federal Office Building, Room 826, 300 East Eight Street, Austin, Texas 78708, Telephone: (512) 482-5988.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (DHT), intends to prepare an environmental impact statement (EIS) on a proposal to upgrade a portion of SH 199 in Tarrant County, Texas to a four- to eight-lane divided facility with control of access. The corridor study begins at Spur 344 in Azle and ends at the proposed SH 121 freeway in Fort Worth. The proposed expansion will improve the safety and capacity of the existing SH 199. Upgrading SH 199 to freeway status is anticipated within the next ten years.

The existing facility is a four-lane principal arterial, approximately 15 miles long. The proposed project will remain primarily along the existing route, except for a portion between FM 1886 and SH 183 for which three alternative routings will be assessed.

One construction alternative will be studied between Spur 344 and FM 1886; three alternative routings will be studied over Lake Worth between FM 1886 and SH 183; and one alternative will be assessed between SH 183 and the proposed SH 121. A no-build alternative will also be assessed.

Because of the difficulty in predicting availability of funds, the DHT has not yet decided whether to use State or Federal funds to finance construction of this project.

The highway section under study connects the Cities of Azle (Inc.) (1980 Pop. 5,822), Lakeside (Inc.) (1980 Pop. 957), Lake Worth (Inc.) (1980 Pop. 4,394), River Oaks (Inc.) (1980 Pop. 6,890), and Sansom Park (Inc.) (1980 Pop. 3,921) with downtown Fort Worth (Inc.) (1980 City Pop. 385,164). SH 199 also serves as an interregional route between Fort Worth and Lubbock.

Traffic volumes have increased considerably, and the existing facility is inadequate to handle traffic needs. Average annual daily traffic for 1985 along the existing facility ranges from 20,000 to 34,000 vehicles per day.

The proposed expansion will safely and efficiently provide for the transportation needs of the area. It will alleviate congestion and delays to better serve traffic, with the result that access to housing, businesses, employment, schools, and churches will be improved.

There are currently no plans to hold a formal scoping meeting for this proposal, but coordination with city planning groups will continue as needed. One or more public meetings will be held in 1987 within the project area, with a public hearing to follow at a later date. Adequate notice will be given through the news media concerning the times and locations of public meetings and the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: March 3, 1987.

W.L. Hall, Jr.,

District Engineer, Austin, Texas.

[FR Doc. 87-5765 Filed 3-17-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 12, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB No.: New
Form No.: IRS Form 8609
Type of Review: New
Title: Low-Income Housing Credit Allocation Certification

Description: Form 8609 is used by state and local agencies to allocate a dollar amount of credit. This form is also used by owners of buildings in which an amount is allocated to certify that the building qualifies for the credit.

Respondents: State or local governments
Estimated Burden: 26,041 hours

OMB No.: 1545-0854
Form No.: None
Type of Review: Extension
Title: Request for Consent to Sale Free of Tax Lien (LR-1214 FINAL)

Description: The Internal Revenue Service needs this information to determine if the taxpayer has equity in the property. This information will be used to determine the amount, if any, to which the tax lien attaches.

Respondents: Individuals, Farms, Businesses
Estimated Burden: 200 hours

OMB No.: 1545-0946
Form No.: IRS Form 8554
Type of Review: Extension
Title: Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, and Enrolled Actuaries Before the Internal Revenue Service

Description: The information relates to the renewal of the enrollment status of those admitted (licensed) by the Internal Revenue Service to practice before the Internal Revenue Service. Included in the renewal records will be a demonstration of compliance with continuing education requirements.

Respondents: Individuals
Estimated Burden: 24,000

Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Office.

[FR Doc. 87-5828 Filed 3-17-87; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE ARMY

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: 2-3 April 1987.

Times of meeting: 0800-1600 hours, 2 April 1987; 0830-1630 hours, 3 April 1987.

Place: U.S. Army Communications and Electronics Command (CECOM), Research, Development and Engineering Center, Fort Monmouth, New Jersey.

Agenda: The ASB Panel will visit the CECOM RD&E Center for the purpose of gathering data for the conduct of the effectiveness review of that facility. Briefings will be presented by each directorate covering their work program. The panel will meet in executive session to discuss the methodology for conducting the review and to discuss observations s a result of the RD&E Center briefings. In addition, one-on-one interviews will be conducted with a cross section of the RD&E Center staff. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d).

The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-6014 Filed 3-17-87; 11:05 am]

BILLING CODE 3710-08-M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; Stauffer Chemical Company & Chesebrough-Pond's Inc. (8½% Debentures Due June 1, 1996, 8.85% Debentures Due January 15, 2001) File Nos. 1-3766, 1-4641

March 16, 1987.

Stauffer Chemical Company ("Stauffer") and Chesebrough-Pond's Inc. ("Chesebrough") have jointly filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

On March 28, 1985 a merger occurred between a wholly-owned subsidiary of Chesebrough-Pond's Inc. ("Chesebrough") and Stauffer Chemical Company ("Stauffer") as a result of which Stauffer became a wholly-owned subsidiary of Chesebrough. Pursuant to supplemental indentures, dated November 14, 1986, Chesebrough guaranteed Stauffer's obligations with respect to the 1996 Debentures and the 2001 Debentures.

The Company has requested that the NYSE delist the 1996 Debentures and 2001 Debentures. The NYSE has stated that it has no objection to this request for delisting. In making the decision to withdraw the 1996 Debentures and 2001 Debentures from listing on the NYSE, the Company considered the direct and indirect costs and expenses attendant in maintaining the listing of the 1996 Debentures and the 2001 Debentures on the NYSE, the small aggregate principal amount of the 1996 Debentures and the 2001 Debentures currently outstanding, the few holders thereof, the low trading volume of these securities on the NYSE and the fact that Shearson Lehman Brothers Inc. has agreed to make a market in these securities.

Any interested person may, on or before April 3, 1987, 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-6053 Filed 3-17-87; 11:44 am]

BILLING CODE 8010-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 52
Wednesday, March 18, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, March 23, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 13, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-5871 Filed 3-16-87; 10:33 am]

BILLING CODE 6210-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94-409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME AND DATE: 9:00 a.m., Tuesday, April 21, 1987.

STATUS: Open and Closed.

ADDRESS: Loch Haven Art Center, Inc., 2416 North Mills Avenue, Orlando Florida 32803. (904) 896-4231.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Buck, Executive Assistant to the National Museum Services Board, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. (202) 786-0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title LL of the Arts, Humanities, and Cultural Affairs act of 1976, Pub. L. 94-462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities invested in the Institute under this Title. Grants are awarded by the Institute of Museum Services after review by the Board.

The meeting of April 21, 1987 will be open to the public from 9:00 a.m. through discussion of agenda item number V. The meeting will be closed to the public for a review of agenda item VI pursuant to paragraphs 6, 9 (B), and other relevant provisions of subsection (c) of section 552 of Title 5, United States Code because the Board will consider information that may disclose: Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy; and information the disclosure of which might significantly impede implementation of proposed agency actions related to the grant award process.

National Museum Services Board April 21, 1987 meeting agenda

I. Approval of Minutes of November 14, 1986 Meeting
II. Director's Report
III. Legislative and Regulatory Update
IV. Other Business
V. Program Report
  A. Museum Assessment Program
  B. Conservation Support Program
  C. General Operating Support
VI. Closed Session

Dated March 12, 1987.

Lois Burke Shepard,
Director.

[FR Doc. 87-5907 Filed 3-16-87; 3:16 pm]

BILLING CODE 7036-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is herby 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 March 16, 1987:

A closed meeting will be held on Tuesday, March 17, 1987, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 17, 1987, at 2:30 p.m., will be:

Instituion of injunctive actions.
Settlement of injunctive action.
Institution of administrative proceeding of an enforcement nature.
Formal orders of investigation.
Settlement of injunctive action.
Consideration of amicus participation.

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: Nancy Morris at (202) 272-2468.

Shirley E. Hollis,
Assistant Secretary.
March 13, 1987.

[FR Doc. 87-5490 Filed 3-16-87; 3:13 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 52
Wednesday, March 18, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 500, 556, 561, 563, 563b, and 563c

[No. 87-217]

Miscellaneous Conforming and Technical Amendments

Correction

In rule document 87-4820 beginning on page 7120 in the issue of Monday, March 9, 1987, make the following corrections:

§ 500.32 [Corrected]

1. On page 7121, in the first column, in § 500.32(c), in the ninth line, "this" should read "his".

PART 556–[CORRECTED]

2. On page 7122, in the third column, after amendatory instruction 32, in the Authority, in the third line, "1701-j-3" should read "1701j-3".

§ 561.15 [Corrected]

3. On page 7123, in the first column, in amendatory instruction 37, in the seventh line, "(j)(l)" should read "(j)(1)".

§ 563.17-1 [Corrected]

4. On the same page, in the second column, amendatory instruction 46 should read:

46. Amend § 563.17-1 by correcting the word "authoized" in the first sentence of paragraph (c)(8) to read "authorized".

§ 563b.1 [Corrected]

5. On the same page, in the third column, amendatory instruction 53 should read:

53. Amend § 563b.1 by removing the reference to "(1)" in paragraph (a); and by removing paragraph (a)(2).

§ 563c.102 [Corrected]

6. On page 7124, in the first column, amendatory instruction 57 should read:

57. Amend § 563c.102 by correcting the word "restrctions" in the second sentence of the statement text of I(1)(b) to read "restrictions".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 455

[Docket No. 86N-0498]

Antibiotic Drugs; Aztreonam for Injection

Correction

In rule document 87-3079 beginning on page 4610 in the issue of Friday, February 13, 1987, make the following corrections:

§ 436.361 [Corrected]

1. In § 436.361(c)(4), on page 4614, in the first column, in the second line, "X" should read "$\bar{X}$".

§ 455.204 [Corrected]

2. On page 4615, in § 455.204(b)(1),in the second column, in the first line, "dihydroypropane" should read "dihydroxypropane".

3. On the same page and column, in § 455.204(b)(1)(ii)(*c*), the third, fourth, and fifth lines should read "[[(2-amino-4-thiazolyl][(1-carboxy-1-methylethoxy)imino]acetyl]amino]-3-(sulfoamino)-butanoic acid, in 10.0".

BILLING CODE 1505-01-D

federal register

Wednesday
March 18, 1987

Part II

Department of Commerce

Office of the Assistant Secretary for Productivity, Technology and Innovation

37 CFR Part 401
Rights to Inventions Made by Nonprofit Organizations and Small Business Firms; Final Rule

DEPARTMENT OF COMMERCE

Office of the Assistant Secretary for Productivity, Technology and Innovation

37 CFR Part 401

[Docket No. 41278-7006]

Rights to Inventions Made by Nonprofit Organizations and Small Business Firms

AGENCY: Assistant Secretary for Productivity, Technology and Innovation.

ACTION: Final rule.

SUMMARY: Public Law 98-620 amended Chapter 18 of Title 35, United States Code, dealing with patent rights in inventions made with Federal funding by nonprofit organizations and small business firms. It also reassigned responsibility for the promulgation of regulations implementing 35 U.S.C. 202 through 204 and the establishment of standard funding agreement provisions from the Office of Mangement and Budget (OMB) to the Secretary of Commerce. This rule makes final the interim final rule published in the **Federal Register** on July 14, 1986, and incorporates minor changes as a result of comments received on the interim final rule.

EFFECTIVE DATE: April 17, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Latker, Director, Federal Technology Management Policy Division, Office of Productivity, Technology and Innovation, U.S. Department of Commerce, Room 4837, Washington, DC 20230. Phone: 202-377-0659.

SUPPLEMENTARY INFORMATION:

Background

Public Law 98-620 amended Chapter 18 of Title 35, United States Code, and assigned regulatory authority to the Secretary of Commerce. The Secretary has delegated his authority under 35 U.S.C. 206 to the Assistant Secretary for Productivity, Technology and Innovation. Section 206 of Title 35 U.S.C. requires that the regulations and the standard funding agreement be subject to public comment before their issuance. Accordingly, on April 4, 1985, the Assistant Secretary published a notice of proposed rulemaking in the **Federal Register** (50 FR 13524) for public comment. As noted at that time, the regulation closely follows OMB Circular A-124 which the regulation replaced. Differences between the proposed rule and the Circular were highlighted in Supplementary Information accompanying the notice of proposed rulemaking.

Additionally, to comply fully with section 206 of Title 35 U.S.C., the Department published in the **Federal Register** (51 FR 25508) on July 14, 1986, a final interim rule and requested comments by September 12, 1986.

Copies of all comments received were made available for public inspection in the Department's Central Reference Records Inspection Facility (CRRIF), Room 6628 in the Hoover Building.

Information about the availability of these records for inspection may be obtained from Mrs. Hedy Walters at (202) 377-3271.

Treatment of Substantative Comments on Interim Final Rule.

A number of comments from eight (8) different sources were received on the interim final rule in response to the July 14, 1986 notice.

The Department of Energy (DOE) submitted five comments on the interim final rule. All of the comments were found to have merit and have been incorporated in the final rule as follows:

DOE's first comment relates to a suggested clarification in the discussion portion of the interim final rule relating to § 401.3(a) (2). DOE's concern is that the discussion suggests that the right of the government to declare exceptional circumstance for national security reasons is limited to "some limited situations" and that application of this section is therefore limited to situations where the invention report is classified. DOE correctly points out that this is not consistent with the actual language of the regulation. We agree that the words "some limited situations" should not have been included in the discussion portion of the July 14, 1986 notice.

DOE's second comment states that the reference in the discussion portion of the interim final rule, in § 401.14(b) to nuclear weapons programs is inaccurate. We agree that the word nuclear should not have been included in the discussion of § 401.14(b).

DOE's third comment suggests that § 401.3(c) be revised to be consistent with § 401.14(b), which permits DOE to draft a substitute clause. We agree and have included the words, "or substitute thereto" after the reference to § 401.14(b) in § 401.3(c).

Another DOE comment suggests that § 401.13(c) (2) goes beyond the similar provision of OMB Circular A-124 by appearing to preclude confidential disclosure of patent applications or information which is part of a patent application obtained under the clause to other agencies or contractors of government agencies. We have clarified this by adding the following additional language to the end of § 401.13(c) (2):

> This prohibition does not extend to disclosure to other government agencies or contractors of government agencies under an obligation to maintain such information in confidence.

DOE also suggests that § 401.13(c)(3) is unnecessary in view of § 401.13(c)(1). However, DOE suggests that if it is retained, § 401.13(c)(3) should be limited to the same time period as § 401.13(c)(1). We agree but have made no change because the language of § 401.13 (c) (3) already refers back to and incorporates the § 401.13(c)(3) already refers back to and incorporates the § 401.13(b)(1) limitation.

DOE also states that in § 401.15, first sentence, third word from the last word, "of" should be "or". We agree and have made this change.

Finally, DOE suggests that § 401.15(b) should have the following five words added at the end: "Unless it has been licensed." We agree and have included these five words at the end of § 401.15(b).

Another person submitted six comments which have been treated as follows:

The first comment suggests that a statement be added to § 401.3(c) as follows: "the Department of Energy may only exercise the exception at § 401.3(a) (4) with regard to inventions at the facility that are made directly and primarily with funds provided by either the Department's naval nuclear propulsion or nuclear weapons related programs." This comment was not accepted since the statute does not use these terms. Further, all determinations made under section 401(a)(4) by DOE are subject to review by the Department of Commerce under § 401.14(f) and each determination will be examined to ensure compliance with the law.

The second comment points out that in order to make a determination under § 401.3(a) (4), an agency must find one of the conditions set out in § 401.3(a) (1), (2) or (3). We disagree with this interpretation as § 401.3(a) (4) is independent of § 401.3(a) (1), (2) and (3).

A third comment suggests that consideration should be given to adding language to § 401.5(g) requiring the contractor to return a significant or a major portion of income to the facility at which the invention was made. This issue was disposed of in the earlier interim final rule notice of July 14, 1986, on page 25509 under the discussion of § 401.5(f). The matter of royalty disposal is one that is best left to negotiations between the interested parties.

The fourth comment relates to the language in § 401.5(g) regarding the physical location of contractor employees responsible for licensing of facility inventions. The comment suggests that 401.5(g) expressly state that contractors be obligated to maintain personnel responsible for licensing at the facility. However, another person requested that the subsection not be interpreted strictly to *require* that such a person be physically located at the facility. Section 202(c)(7)(C) of Pub. L. 98-620 indicates that licensing be done at the facility, "to the extent it provides the most effective technology transfer . . .". We believe this language precludes arbitrarily requiring that licensing personnel be located at the facility.

A fifth comment recommended requiring DOE funding agreements to conform to the language prescribed by § 401.14(b)(2) when the exception at § 401.3(a)(4) is used. This was not accepted. Although we have, in fact, permitted DOE to use a substitute clause for that set out in § 401.14(b)(2), we will be reviewing all agency regulations including DOE's to ensure compliance with the law and regulations, including all substitute clauses contained in agency regulations.

The final comment of this second person is that we modify the statement in § 401.15(a) that "within 90 days after receiving . . ." to read: Within 90 days after receiving a request and supporting information or sooner if a statutory bar to patenting is imminent, the agency shall either make a determination or inform the contractor of why a determination has not yet been made and when one can reasonably be expected." This comment was not accepted. At this time, this is a matter best left to the parties to determine on a case-by-case basis.

A number of comments were also received regarding a typographical error in the "Background" section on page 25510 of the July 14, 1986 Federal Register notice. The word "not" was inadvertently left out of the last sentence of the first paragraph discussing § 401.7. The sentence should have read as follows: "this change has been made because small business preference is not intended to inhibit industrial support of university research."

Two comments were received that relate to the exceptions to be made for handling of inventions if they are under research at a government-owned, contractor-operated facility (GOCO):

The first comment relates to the requirement in § 401.5(g) that specifies that income be used for purposes "consistent with research and development mission and objectives of the facility." The commenter suggests it would be preferable that a university be able to direct the net royalty income to the most promising research needs, which may not necessarily be consistent with the objective of the GOCO facility. We cannot accept this suggestion since the language in the regulation is based on the statute—Pub. L. 98-620.

The second comment goes on to state that § 401.5(g) further specifies that if a licensing program is successful, then above a certain point, 75 percent is to be paid to the U.S. Treasury. The suggestion is that this reduces the incentive to be successful, and recommends the deletion of this requirement. Again, we cannot accept this suggestion since the regulatory language herein is based on the statute—Pub. L. 98-620.

A third comment references the special clause entitled, "patent rights to nonprofit DOE facility operations." The comment states that this clause removes a subject invention funded by the naval nuclear propulsion or weapons related programs of DOE from the normal presumption of rights to the contractor, and requires the petitioning process that was in effect before the enactment of Pub. L. 96-517. The concern is that if these programs are exempted, then there may be additional proposals to delete other programs from the full operations of Pub. L. 96-517. The comment then concludes by recommending that this special clause not be implemented. We cannot accept this recommendation since the statute, Pub. L. 98-620, gives DOE the discretionary authority to use this for its naval nuclear propulsion or weapons related programs.

Another comment received relates to § 401.14(c)(1), which calls for disclosure by a contractor to the contracting government agency of each "subject invention . . ." within two months of the time it is disclosed by the inventor in writing. The commenter complains that two months is "too harsh." We do not accept this comment for two reasons. (1) The statute, Pub. L. 98-620, uses the words "reasonable time" and we think two months is reasonable; and (2) § 401.14(c)(4) allows extensions of time at the discretion of the agency.

One person asked for greater guidance on whether contractor funding of individual scientists at different universities is an educational award within 35 U.S.C. 212 and, if so, what rights such awardees should have. We have not acted on this comment since we do not believe any contractor has the authority to use funding for the educational awards covered by 35 U.S.C. 212.

A comment was submitted that relates to the discussion in the July 14, 1986 notice of § 401.13(b). The concern is that the discussion may be misinterpreted to imply that agencies may not apply the provisions of Pub. L. 98-620 retroactively. This point is well taken. It was our intent in the July 14, 1986 discussion of § 401.13(b) to note only that the Department of Commerce has no authority under the law to require agencies to waive the cap on the term of an exclusive license in a patent clause that predates enactment of Pub. L. 98-620. There is no question that the agencies themselves have authority under the law to waive such cap and the regulations in fact urge them to do so absent a substantive reason to do otherwise.

Another person requested that the Department of Commerce set a time for issuance of draft supplementary regulations relating to foreign filing deadlines at § 401.14(c)(3). As we previously indicated in the interim final rule notice on July 14, 1986, we are considering this matter. Therefore, we see no reason at this time to set a deadline.

Finally, pursuant to requests by two persons, we have included in this final notice, uniform policy guidance in § 401.1(a) to these final regulations similar to that included in OMB Circular A-124. This has been done to ensure clarity and continuity between OMB Circular A-124 and these final regulations with regard to policy.

Rulemaking Requirements

As stated in the proposed notice and the interim final rule, this regulation is not a major rule as defined in Executive Order 12291, and it adds no paperwork burdens. In fact, it reduces certain paperwork requirements of the regulations it replaces. And, as discussed in connection with the proposed rule and the interim final rule, the General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a substantial economic impact on a substantial number of small entities.

List of Subjects in 37 CFR Ch. IV

Inventions, Patents, Nonprofit organizations, Small Business firms.

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Date: March 11, 1987.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

Accordingly, Part 401 of Chapter IV of Title 37, the Code of Federal Regulations is revised to read as follows:

PART 401—RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Sec.
401.1 Scope.
401.2 Definitions.
401.3 Use of the Standard Clauses at § 401.14.
401.4 Contractor appeals of exceptions.
401.5 Modification and tailoring of clauses.
401.6 Exercise of march-in rights.
401.7 Small business preference.
401.8 Reporting on utilization of subject inventions.
401.9 Retention of rights by contractor employee inventor.
401.10 Government assignment to contractor of rights in invention of government employee.
401.11 Appeals.
401.12 Licensing of background patent rights to third parties.
401.13 Administration of patent rights clauses.
401.14 Standard patent rights clauses.
401.15 Deferred determinations.
401.16 Submissions and inquiries.

Authority: 35 U.S.C. 206 and the delegation of authority by the Secretary of Commerce to the Assistant Secretary for Productivity, Technology and Innovation at Sec. 3(g) of DOO 10-1.

§ 401.1 Scope.

(a) Traditionally there have been no conditions imposed by the government on research performers while using private facilities which would preclude them from accepting research funding from other sources to expand, to aid in completing or to conduct separate investigations closely related to research activities sponsored by the government. Notwithstanding the right of research organizations to accept supplemental funding from other sources for the purpose of expediting or more comprehensively accomplishing the research objectives of the government sponsored project, it is clear that the ownership provisions of these regulations would remain applicable in any invention "conceived or first actually reduced to practice in performance" of the project. Separate accounting for the two funds used to support the project in this case is not a determining factor.

(1) To the extent that a non-government sponsor established a project which, although closely related, falls outside the planned and committed activities of a government-funded project and does not diminish or distract from the performance of such activities, inventions made in performance of the non-government sponsored project would not be subject to the conditions of these regulations. An example of such related but separate projects would be a government sponsored project having research objectives to expand scientific understanding in a field and a closely related industry sponsored project having as its objectives the application of such new knowledge to develop usable new technology. The time relationship in conducting the two projects and the use of new fundamental knowledge from one in the performance of the other are not important determinants since most inventions rest on a knowledge base built up by numerous independent research efforts extending over many years. Should such an invention be claimed by the performing organization to be the product of non-government sponsored research and be challenged by the sponsoring agency as being reportable to the government as a "subject invention", the challenge is appealable as described in § 401.11(d).

(2) An invention which is made outside of the research activities of a government-funded project is not viewed as a "subject invention" since it cannot be shown to have been "conceived or first actually reduced to practice" in performance of the project. An obvious example of this is a situation where an instrument purchased with government funds is later used, without interference with or cost to the government-funded project, in making an invention all expenses of which involve only non-government funds.

(b) This part inplements 35 U.S.C. 202 through 204 and is applicable to all Federal agencies. It applies to all funding agreements with small business firms and nonprofit organizations executed after the effective date of this part, except for a funding agreement made primarily for educational purposes. Certain sections also provide guidance for the administration of funding agreements which predate the effective date of this part. In accordance with 35 U.S.C. 212, no scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee.

(c) The "march-in" and appeals procedures in §§ 401.6 and 401.11 shall apply to any march-in or appeal proceeding under a funding agreement subject to Chapter 18 of Title 35, U.S.C., initiated after the effective date of this part even if the funding agreement was executed prior to that date.

(d) At the request of the contractor, a funding agreement for the operation of a government-owned facility which is in effect on the effective date of this part shall be promptly amended to include the provisions required by §§ 401.3(a) unless the agency determines that one of the exceptions at 35 U.S.C. 202(a)(i) through (iv) § 401.3(a)(8) through (iv) of this part) is applicable and will be applied. If the exception at § 401.3(a)(iv) is determined to be applicable, the funding agreement will be promptly amended to include the provisions required by § 401.3(c).

(e) This regulation supersedes OMB Circular A-124 and shall take precedence over any regulations dealing with ownership of inventions made by small businesses and nonprofit organizations which are inconsistent with it. This regulation will be followed by all agencies pending amendment of agency regulations to conform to this part and amended Chapter 18 of Title 35. Only deviations requested by a contractor and not inconsistent with Chapter 18 of Title 35, United States Code, may be made without approval of the Secretary. Modifications or tailoring of clauses as authorized by § 401.5 or §401.3, when alternative provisions are used under § 401.3(a)(1) through (4), are not considered deviations requiring the Secretary's approval. Three copies of proposed and final agency regulations supplementing this part shall be submitted to the Secretary at the office set out in § 401.16 for approval for consistency with this part before they are submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291 or, if no submission is required to be made to OMB, before their submission to the **Federal Register** for publication.

(f) In the event an agency has outstanding prime funding agreements that do not contain patent flow-down provisions consistent with this part or earlier Office of Federal Procurement Policy regulations (OMB Circular A-124 or OMB Bulletin 81-22), the agency shall take appropriate action to ensure that small business firms or nonprofit organizations that are subcontractors under any such agreements and that received their subcontracts after July 1, 1981, receive rights in their subject

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inventions that are consistent with Chapter 18 and this part.

(g) This part is not intended to apply to arrangements under which nonprofit organizations, small business firms, or others are allowed to use government-owned research facilities and normal technical assistance provided to users of those facilities, whether on a reimbursable or nonreimbursable basis. This part is also not intended to apply to arrangements under which sponsors reimburse the government or facility contractor for the contractor employee's time in performing work for the sponsor. Such arrangements are not considered "funding agreements" as defined at 35 U.S.C. 201(b) and § 401.2(a) of this part.

§ 401.2 Definitions.

As used in this part—

(a) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

(b) The term "contractor" means any person, small business firm or nonprofit organization which is a party to a funding agreement.

(c) The term "invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

(d) The term "subject invention" means any invention of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement; provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(e) The term "practical application" means to manufacture in the case of a composition of product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(f) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(g) The term "small business firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this part, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.5 will be used.

(h) The term "nonprofit organization" means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(i) The term "Chapter 18" means Chapter 18 of Title 35 of the United States Code.

(j) The term "Secretary" means the Secretary of Commerce or his or her designee.

§ 401.3 Use of the Standard Clauses at § 401.14.

(a) Each funding agreement awarded to a small business firm or nonprofit organization (except those subject to 35 U.S.C. 212) shall contain the clause found in § 401.14(a) with such modifications and tailoring as authorized or required elsewhere in this part. However, a funding agreement may contain alternative provisions—

(1) When the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government; or

(2) In exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of Chapter 18 of Title 35 of the United States Code; or

(3) When it is determined by a government authority which is authorized by statute or executive order to conduct foreign intelligence or counterintelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security to such activities; or

(4) When the funding agreement includes the operation of the government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department's naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor's right to elect title to a subject invention are limited to inventions occurring under the above two programs.

(b) When an agency exercises the exceptions at § 401.3(a)(2) or (3), it shall use the standard clause at § 401.14(a) with only such modifications as are necessary to address the exceptional circumstances or concerns which led to the use of the exception. For example, if the justification relates to a particular field of use or market, the clause might be modified along lines similar to those described in § 401.14(b). In any event, the clause should provide the contractor with an opportunity to receive greater rights in accordance with the procedures at § 401.15. When an agency justifies and exercises the exception at § 401.3(a)(2) and uses an alternative provision in the funding agreement on the basis of national security, the provision shall provide the contractor with the right to elect ownership to any invention made under such funding agreement as provided by the Standard Patent Rights Clause found at § 401.14(a) if the invention is not classified by the agency within six months of the date it is reported to the agency, or within the same time period the Department of Energy does not, as authorized by regulation, law or Executive Order or implementing regulations thereto, prohibit unauthorized dissemination of the invention. Contracts in support of DOE's naval nuclear propulsion program are exempted from this paragraph.

(c) When the Department of Energy exercises the exception at § 401.3(a)(4), it shall use the clause prescribed at § 401.14(b) or substitute thereto with such modification and tailoring as authorized or required elsewhere in this part.

(d) When a funding agreement involves a series of separate task orders, an agency may apply the exceptions at § 401.3(a)(2) or (3) to individual task orders, and it may structure the contract so that modified patent rights provisions will apply to the task order even though the clauses at either § 401.14(a) or (b) are applicable to the remainder of the work. Agencies are authorized to negotiate such modified provisions with respect to task orders added to a funding agreement after its initial award.

(e) Before utilizing any of the exceptions in § 401.3(a) of this section, the agency shall prepare a written determination, including a statement of facts supporting the determination, that the conditions identified in the exception exist. A separate statement of facts shall be prepared for each exceptional circumstances determination, except that in appropriate cases a single determination may apply to both a funding agreement and any subcontracts issued under it or to any funding agreement to which such an exception is applicable. In cases when § 401.3(a)(2) is used, the determination shall also include an analysis justifying the determination. This analysis should address with specificity how the alternate provisions will better achieve the objectives set forth in 35 U.S.C. 200. A copy of each determination, statement of facts, and, if applicable, analysis shall be promptly provided to the contractor or prospective contractor along with a notification to the contractor or prospective contractor of its rights to appeal the determination of the exception under 35 U.S.C. 202(b)(4) and § 401.4 of this part.

(f) Except for determinations under § 401.3(a)(3), the agency shall also provide copies of each determination, statement of fact, and analysis to the Secretary. These shall be sent within 30 days after the award of the funding agreement to which they pertain. Copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration if the funding agreement is with a small business firm. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this chapter or otherwise not in conformance with this chapter, the Secretary shall so advise the head of the agency concerned and the Administrator of the Office of Federal Procurement Policy and recommend corrective actions.

(g) To assist the Comptroller General of the United States to accomplish his or her responsibilities under 35 U.S.C. 202, each Federal agency that enters into any funding agreements with nonprofit organizations or small business firms shall accumulate and, at the request of the Comptroller General, provide the Comptroller General or his or her duly authorized representative the total number of prime agreements entered into with small business firms or nonprofit organizations that contain the patent rights clause in this part or under OMB Circular A-124 for each fiscal year beginning with October 1, 1982.

(h) To qualify for the standard clause, a prospective contractor may be required by an agency to certify that it is either a small business firm or a nonprofit organization. If the agency has reason to question the status of the prospective contractor as a small business firm, it may file a protest in accordance with 13 CFR 121.9. If it questions nonprofit status, it may require the prospective contractor to furnish evidence to establish its status as a nonprofit organization.

§ 401.4 Contractor appeals of exceptions.

(a) In accordance with 35 U.S.C. 202(b)(4) a contractor has the right to an administrative review of a determination to use one of the exceptions at § 401.3(a) (1) through (4) if the contractor believes that a determination is either contrary to the policies and objectives of this chapter or constitutes an abuse of discretion by the agency. Paragraph (b) of this section specifies the procedures to be followed by contractors and agencies in such cases. The assertion of such a claim by the contractor shall not be used as a basis for withholding or delaying the award of a funding agreement or for suspending performance under an award. Pending final resolution of the claim the contract may be issued with the patent rights provision proposed by the agency; however, should the final decision be in favor of the contractor, the funding agreement will be amended accordingly and the amendment made retroactive to the effective date of the funding agreement.

(b)(1) A contractor may appeal a determination by providing written notice to the agency within 30 working days from the time it receives a copy of the agency's determination, or within such longer time as an agency may specify in its regulations. The contractor's notice should specifically identify the basis for the appeal.

(2) The appeal shall be decided by the head of the agency or by his/her designee who is at a level above the person who made the determination. If the notice raises a genuine dispute over the material facts, the head of the agency or the designee shall undertake, or refer the matter for, fact-finding.

(3) Fact-finding shall be conducted in accordance with procedures established by the agency. Such procedures shall be as informal as practicable and be consistent with principles of fundamental fairness. The procedures should afford the contractor the opportunity to appear with counsel, submit documentary evidence, present witnesses and confront such persons as the agency may rely upon. A transcribed record shall be made and shall be available at cost to the contractor upon request. The requirement for a transcribed record may be waived by mutual agreement of the contractor and the agency.

(4) The official conducting the fact-finding shall prepare or adopt written findings of fact and transmit them to the head of the agency or designee promptly after the conclusion of the fact-finding proceeding along with a recommended decision. A copy of the findings of fact and recommended decision shall be sent to the contractor by registered or certified mail.

(5) Fact-finding should be completed within 45 working days from the date the agency receives the contractor's written notice.

(6) When fact-finding has been conducted, the head of the agency or designee shall base his or her decision on the facts found, together with any argument submitted by the contractor, agency officials or any other information in the administrative record. In cases referred for fact-finding, the agency head or the designee may reject only those facts that have been found to be clearly erroneous, but must explicitly state the rejection and indicate the basis for the contrary finding. The agency head or the designee may hear oral arguments after fact-finding provided that the contractor or contractor's attorney or representative is present and given an opportunity to make arguments and rebuttal. The decision of the agency head or the designee shall be in writing and, if it is unfavorable to the contractor shall include an explanation of the basis of the decision. The decision of the agency or designee shall be made within 30 working days after fact-finding or, if there was no fact-finding, within 45 working days from the date the agency received the contractor's written notice. A contractor adversely affected by a determination under this section may, at any time within sixty days after the determination is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the appeal on the record and to affirm, reverse, remand, or modify as appropriate, the determination of the Federal agency.

§ 401.5 Modification and tailoring of clauses.

(a) Agencies should complete the blank in paragraph (g)(2) of the clauses at § 401.14 in accordance with their own or applicable government-wide regulations such as the Federal Acquisition Regulation. In grants and cooperative agreements (and in

contracts, if not inconsistent with the Federal Acquisition Regulation) agencies wishing to apply the same clause to all subcontractors as is applied to the contractor may delete paragraph (g)(2) of the clause and delete the words "to be performed by a small business firm or domestic nonprofit organization" from paragraph (g)(1). Also, if the funding agreement is a grant or cooperative agreement, paragraph (g)(3) may be deleted. When either paragraph (g)(2) or paragraphs (g) (2) and (3) are deleted, the remaining paragraph or paragraphs should be renumbered appropriately.

(b) Agencies should complete paragraph (l), "Communications", at the end of the clauses at § 401.14 by designating a central point of contact for communications on matters relating to the clause. Additional instructions on communications may also be included in paragraph (l).

(c) Agencies may replace the italicized words and phrases in the clauses at § 401.14 with those appropriate to the particular funding agreement. For example, "contracts" could be replaced by "grant," "contractor" by "grantee," and "contracting officer" by "grants officer." Depending on its use, "Federal agency" can be replaced either by the identification of the agency or by the specification of the particular office or official within the agency.

(d) When the agency head or duly authorized designee determines at the time of contracting with a small business firm or nonprofit organization that it would be in the national interest to acquire the right to sublicense foreign governments or international organizations pursuant to any existing treaty or international agreement, a sentence may be added at the end of paragraph (b) of the clause at § 401.14 as follows:

This license will include the right of the government to sublicense foreign governments, their nationals, and international organizations, pursuant to the following treaties or international agreements:

____________.

The blank above should be completed with the names of applicable existing treaties or international agreements, agreements of cooperation, memoranda of understanding, or similar arrangements, including military agreements relating to weapons development and production. The above language is not intended to apply to treaties or other agreements that are in effect on the date of the award but which are not listed. Alternatively, agencies may use substantially similar language relating the government's rights to specific treaties or other agreements identified elsewhere in the funding agreement. The language may also be modified to make clear that the rights granted to the foreign government, and its nationals or an international organization may be for additional rights beyond a license or sublicense if so required by the applicable treaty or international agreement. For example, in some exclusive licenses or even the assignment of title in the foreign country involved might be required. Agencies may also modify the language above to provide for the direct licensing by the contractor of the foreign government or international organization.

(e) If the funding agreement involves performance over an extended period of time, such as the typical funding agreement for the operation of a government-owned facility, the following language may also be added:

The *agency* reserves the right to unilaterally amend this *funding agreement* to identify specific treaties or international agreements entered into or to be entered into by the government after the effective date of this *funding agreement* and effectuate those license or other rights which are necessary for the government to meet its obligations to foreign governments, their nationals and international organizations under such treaties or international agreements with respect to subject inventions made after the date of the amendment.

(f) Agencies may add additional subparagraphs to paragraph (f) of the clauses at § 401.14 to require the contractor to do one or more of the following:

(1) Provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

(2) Provide, upon request, the filing date, serial number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(3) Provide periodic (but no more frequently than annual) listings of all subject inventions which were disclosed to the agency during the period covered by the report.

(g) If the contract is with a nonprofit organization and is for the operation of a government-owned, contractor-operated facility, the following will be substituted for paragraph (k)(3) of the clause at § 401.14(a):

(3) After payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, the balance of any royalties or income earned and retained by the *contractor* during any fiscal year on subject inventions under this or any successor *contract* containing the same requirement, up to any amount equal to five percent of the budget of the facility for that fiscal year, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facility. If the balance exceeds five percent, 75 percent of the excess above five percent shall be paid by the contractor to the Treasury of the United States and the remaining 25 percent shall be used by the *contractor* only for the same purposes as described above. To the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by *contractor* employees on location at the facility.

(h) If the contract is for the operation of a government-owned facility, agencies may add the following at the end of paragraph (f) of the clause at § 401.14(a):

(5) The contractor shall establish and maintain active and effective procedures to ensure that subject inventions are promptly identified and timely disclosed and shall submit a description of the procedures to the *contracting officer* so that the *contracting officer* may evaluate and determine their effectiveness.

§ 401.6 Exercise of march-in rights.

(a) The following procedures shall govern the exercise of the march-in rights of the agencies set forth in 35 U.S.C. 203 and paragraph (j) of the clause at § 401.14.

(b) Whenever an agency receives information that it believes might warrant the exercise of march-in rights, before initiating any march-in proceeding, it shall notify the contractor in writing of the information and request informal written or oral comments from the contractor as well as information relevant to the matter. In the absence of any comments from the contractor within 30 days, the agency may, at its discretion, proceed with the procedures below. If a comment is received within 30 days, or later if the agency has not initiated the procedures below, then the agency shall, within 60 days after it receives the comment, either initiate the procedures below or notify the contractor, in writing, that it will not pursue march-in rights on the basis of the available information.

(c) A march-in proceeding shall be initiated by the issuance of a written notice by the agency to the contractor and its assignee or exclusive licensee, as applicable and if known to the agency, stating that the agency is considering the exercise of march-in rights. The

notice shall state the reasons for the proposed march-in in terms sufficient to put the contractor on notice of the facts upon which the action would be based and shall specify the field or fields of use in which the agency is considering requiring licensing. The notice shall advise the contractor (assignee or exclusive licensee) of its rights, as set forth in this section and in any supplemental agency regulations. The determination to exercise march-in rights shall be made by the head of the agency or his or her designee.

(d) Within 30 days after the receipt of the written notice of march-in, the contractor (assignee or exclusive licensee) may submit in person, in writing, or through a representative, information or argument in opposition to the proposed march-in, including any additional specific information which raises a genuine dispute over the material facts upon which the march-in is based. If the information presented raises a genuine dispute over the material facts, the head of the agency or designee shall undertake or refer the matter to another official for fact-finding.

(e) Fact-finding shall be conducted in accordance with the procedures established by the agency. Such procedures shall be as informal as practicable and be consistent with principles of fundamental fairness. The procedures should afford the contractor the opportunity to appear with counsel, submit documentary evidence, present witnesses and confront such persons as the agency may present. A transcribed record shall be made and shall be available at cost to the contractor upon request. The requirement for a transcribed record may be waived by mutual agreement of the contractor and the agency. Any portion of the march-in proceeding, including a fact-finding hearing that involves testimony or evidence relating to the utilization or efforts at obtaining utilization that are being made by the contractor, its assignee, or licensees shall be closed to the public, including potential licensees. In accordance with 35 U.S.C. 202(c)(5), agencies shall not disclose any such information obtained during a march-in proceeding to persons outside the government except when such release is authorized by the contractor (assignee or licensee).

(f) The official conducting the fact-finding shall prepare or adopt written findings of fact and transmit them to the head of the agency or designee promptly after the conclusion of the fact-finding proceeding along with a recommended determination. A copy of the findings of fact shall be sent to the contractor (assignee or exclusive licensee) by registered or certified mail. The contractor (assignee or exclusive licensee) and agency representatives will be given 30 days to submit written arguments to the head of the agency or designee; and, upon request by the contractor oral arguments will be held before the agency head or designee that will make the final determination.

(g) In cases in which fact-finding has been conducted, the head of the agency or designee shall base his or her determination on the facts found, together with any other information and written or oral arguments submitted by the contractor (assignee or exclusive licensee) and agency representatives, and any other information in the administrative record. The consistency of the exercise of march-in rights with the policy and objectives of 35 U.S.C. 200 shall also be considered. In cases referred for fact-finding, the head of the agency or designee may reject only those facts that have been found to be clearly erroneous, but must explicitly state the rejection and indicate the basis for the contrary finding. Written notice of the determination whether march-in rights will be exercised shall be made by the head of the agency or designee and sent to the contractor (assignee of exclusive licensee) by certified or registered mail within 90 days after the completion of fact-finding or 90 days after oral arguments, whichever is later, or the proceedings will be deemed to have been terminated and thereafter no march-in based on the facts and reasons upon which the proceeding was initiated may be exercised.

(h) An agency may, at any time, terminate a march-in proceeding if it is satisfied that it does not wish to exercise march-in rights.

(i) The procedures of this Part shall also apply to the exercise of march-in rights against inventors receiving title to subject inventions under 35 U.S.C. 202(d) and, for that purpose, the term "contractor" as used in this section shall be deemed to include the inventor.

(j) An agency determination unfavorable to the contractor (assignee or exclusive licensee) shall be held in abeyance pending the exhaustion of appeals or petitions filed under 35 U.S.C. 203(2).

(k) For purposes of this section the term "exclusive licensee" includes a partially exclusive licensee.

(l) Agencies are authorized to issue supplemental procedures not inconsistent with this part for the conduct of march-in proceedings.

§ 401.7 Small Business Preference.

(a) Paragraph (k)(4) of the clauses at § 401.14 implements the small business preference requirement of 35 U.S.C. 202(c)(7)(D). Contractors are expected to use efforts that are reasonable under the circumstances to attract small business licensees. They are also expected to give small business firms that meet the standard outlined in the clause a preference over other applicants for licenses. What constitutes reasonable efforts to attract small business licensees will vary with the circumstances and the nature, duration, and expense of efforts needed to bring the invention to the market. Paragraph (k)(4) is not intended, for example, to prevent nonprofit organizations from providing larger firms with a right of first refusal or other options in inventions that relate to research being supported under long-term or other arrangements with larger companies. Under such circumstances it would not be resonable to seek and to give a preference to small business licensees.

(b) Small business firms that believe a nonprofit organization is not meeting its obligations under the clause may report their concerns to the Secretary. To the extent deemed appropriate, the Secretary will undertake informal investigation of the concern, and, if appropriate, enter into discussions or negotiations with the nonprofit organization to the end of improving its efforts in meeting its obligations under the clause. However, in no event will the Secretary intervene in ongoing negotiations or contractor decisions concerning the licensing of a specific subject invention. All the above investigations, discussions, and negotiations of the Secretary will be in coordination with other interested agencies, including the Small Business Administration; and in the case of a contract for the operation of a government-owned, contractor operated research or production facility, the Secretary will coordinate with the agency responsible for the facility prior to any discussions or negotiations with the contractor.

401.8 Reporting on utilization of subject inventions.

(a) Paragraph (h) of the clauses at § 401.14 and its counterpart in the clause at Attachment A to OMB Circular A-124 provides that agencies have the right to receive periodic reports from the contractor on utilization of inventions. Agencies exercising this right should accept such information, to the extent feasible, in the format that the contractor normally prepares it for its

own internal purposes. The prescription of forms should be avoided. However, any forms or standard questionnaires that are adopted by an agency for this purpose must comply with the requirements of the Paperwork Reduction Act. Copies shall be sent to the Secretary.

(b) In accordance with 35 U.S.C. 202(c)(5) and the terms of the clauses at § 401.14, agencies shall not disclose such information to persons outside the government. Contractors will continue to provide confidential markings to help prevent inadvertent release outside the agency.

§ 401.9 Retention of Rights by Contractor Employee Inventor.

Agencies which allow an employee/inventor of the contractor to retain rights to a subject invention made under a funding agreement with a small business firm or nonprofit organization contractor, as authorized by 35 U.S.C. 202(d), will impose upon the inventor at least those conditions that would apply to a small business firm contractor under paragraphs (d)(1) and (3); (f)(4); (h); (i); and (j) of the clause at § 401.14(a).

§ 401.10 Government Assignment to Contractor of Rights in Invention of Government Employee.

In any case when a Federal employee is a co-inventor of any invention made under a funding agreement with a small business firm or nonprofit organization and the Federal agency employing such co-inventor transfers or reassigns the right it has acquired in the subject invention from its employee to the contractor as authorized by 35 U.S.C. 202(e), the assignment will be made subject to the same conditions as apply to the contractor under the patent rights clause of its funding agreement. Agencies may add additional conditions as long as they are consistent with 35 U.S.C. 201–206.

§ 401.11 Appeals.

(a) As used in this section, the term "standard clause" means the clause at § 401.14 of this part and the clauses previously prescribed by either OMB Circular A–124 or OMB Bulletin 81–22.

(b) The agency official initially authorized to take any of the following actions shall provide the contractor with a written statement of the basis for his or her action at the time the action is taken, including any relevant facts that were relied upon in taking the action.

(1) A refusal to grant an extension under paragraph (c)(4) of the standard clauses.

(2) A request for a conveyance of title under paragraph (d) of the standard clauses.

(3) A refusal to grant a waiver under paragraph (i) of the standard clauses.

(4) A refusal to approve an assignment under paragraph (k)(1) of the standard clauses.

(5) A refusal to grant an extension of the exclusive license period under paragraph (k)(2) of the clauses prescribed by either OMB Circular A–124 or OMB Bulletin 81–22.

(c) Each agency shall establish and publish procedures under which any of the agency actions listed in paragraph (b) of this section may be appealed to the head of the agency or designee. Review at this level shall consider both the factual and legal basis for the actions and its consistency with the policy and objectives of 35 U.S.C. 200–206.

(d) Appeals procedures established under paragraph (c) of this section shall include administrative due process procedures and standards for fact-finding at least comparable to those set forth in § 401.6 (e) through (g) whenever there is a dispute as to the factual basis for an agency request for a conveyance of title under paragraph (d) of the standard clause, including any dispute as to whether or not an invention is a subject invention.

(e) To the extent that any of the actions described in paragraph (b) of this section are subject to appeal under the Contract Dispute Act, the procedures under the Act will satisfy the requirements of paragraphs (c) and (d) of this section.

§ 401.12 Licensing of Background Patent Rights to Third Parties.

(a) A funding agreement with a small business firm or a domestic nonprofit organization will not contain a provision allowing a Federal agency to require the licensing to third parties of inventions owned by the contractor that are not subject inventions unless such provision has been approved by the agency head and a written justification has been signed by the agency head. Any such provision will clearly state whether the licensing may be required in connection with the practice of a subject invention, a specifically identified work object, or both. The agency head may not delegate the authority to approve such provisions or to sign the justification required for such provisions.

(b) A Federal agency will not require the licensing of third parties under any such provision unless the agency head determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement and that such action is necessary to achieve practical application of the subject invention or work object. Any such determination will be on the record after an opportunity for an agency hearing. The contractor shall be given prompt notification of the determination by certified or registered mail. Any action commenced for judicial review of such determination shall be brought within sixty days after notification of such determination.

§ 401.13 Administration of Patent Rights Clauses.

(a) In the event a subject invention is made under funding agreements of more than one agency, at the request of the contractor or on their own initiative the agencies shall designate one agency as responsible for administration of the rights of the government in the invention.

(b) Agencies shall promptly grant, unless there is a significant reason not to, a request by a nonprofit organization under paragraph (k)(2) of the clauses prescribed by either OMB Circular A–124 or OMB Bulletin 81–22 inasmuch as 35 U.S.C. 202(c)(7) has since been amended to eliminate the limitation on the duration of exclusive licenses. Similarly, unless there is a significant reason not to, agencies shall promptly approve an assignment by a nonprofit organization to an organization which has as one of its primary functions the management of inventions when a request for approval has been necessitated under paragraph (k)(1) of the clauses prescribed by either OMB Circular A–124 or OMB Bulletin 81–22 because the patent management organization is engaged in or holds a substantial interest in other organizations engaged in the manfacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention. As amended, 35 U.S.C. 202(c)(7) no longer contains this limitation. The policy of this subsection should also be followed in connection with similar approvals that may be required under Institutional Patent Agreements, other patent rights clauses, or waivers that predate Chapter 18 of Title 35, United States Code.

(c) The President's Patent Policy Memorandum of February 18, 1983, states that agencies should protect the confidentiality of invention disclosure, patent applications, and utilization reports required in performance or in consequence of awards to the extent permitted by 35 U.S.C. 205 or other applicable laws. The following

requirements should be followed for funding agreements covered by and predating this Part 401.

(1) To the extent authorized by 35 U.S.C. 205, agencies shall not disclose to third parties pursuant to requests under the Freedom of Information Act (FOIA) any information disclosing a subject invention for a reasonable time in order for a patent application to be filed. With respect to subject inventions of contractors that are small business firms or nonprofit organizations, a reasonable time shall be the time during which an initial patent application may be filed under paragraph (c) of the standard clause found at § 401.14(a) or such other clause may be used in the funding agreement. However, an agency may disclose such subject inventions under the FOIA, at its discretion, after a contractor has elected not to retain title or after the time in which the contractor is required to make an election if the contractor has not made an election within that time. Similarly, an agency may honor a FOIA request at its discretion if it finds that the same information has previously been published by the inventor, contractor, or otherwise. If the agency plans to file itself when the contractor has not elected title, it may, of course, continue to avail itself of the authority of 35 U.S.C. 205.

(2) In accordance with 35 U.S.C. 205, agencies shall not disclose or release for a period of 18 months from the filing date of the application to third parties pursuant to requests under the Freedom of Information Act or otherwise copies of any document which the agency obtained under this clause which is part of an application for patent with the U.S. Patent and Trademark Office or any foreign patent office filed by the contractor (or its assignees, licensees, or employees) on a subject invention to which the contractor has elected to retain title. This prohibition does not extend to disclosure to other government agencies or contractors of government agencies under an obligation to maintain such information in confidence.

(3) A number of agencies have policies to encourage public dissemination of the results of work supported by the agency through publication in government or other publications of technical reports of contractors or others. In recognition of the fact that such publication, if it included descriptions of a subject invention could create bars to obtaining patent protection, it is the policy of the executive branch that agencies will not include in such publication programs copies of disclosures of inventions submitted by small business firms or nonprofit organizations, pursuant to paragraph (c) of the standard clause found at § 401.14(a), except that under the same circumstances under which agencies are authorized to release such information pursuant to FOIA requests under paragraph (c)(1) of this section, agencies may publish such disclosures.

(4) Nothing in this paragraph is intended to preclude agencies from including in the publication activities described in the first sentence of paragraph (c)(3), the publication of materials describing a subject invention to the extent such materials were provided as part of a technical report or other submission of the contractor which were submitted independently of the requirements of the patent rights provisions of the contract. However, if a small business firm or nonprofit organization notifies the agency that a particular report or other submission contains a disclosure of a subject invention to which it has elected title or may elect title, the agency shall use reasonable efforts to restrict its publication of the material for six months from date of its receipt of the report or submission or, if earlier, until the contractor has filed an initial patent application. Agencies, of course, retain the discretion to delay publication for additional periods of time.

(5) Nothing in this paragraph is intended to limit the authority of agencies provided in 35 U.S.C. 205 in circumstances not specifically described in this paragraph.

§ 401.14 Standard patent rights clauses.

(a) The following is the standard patent rights clause to be used as specified in § 401.3(a).

Patent Rights (Small Business Firms and Nonprofit Organizations)

(a) Definitions

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(2) "Subject invention" means any invention of the *contractor* conceived or first actually reduced to practice in the performance of work under this *contract*, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of *contract* performance.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights

The *Contractor* may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the *Contractor* retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention disclosure, Election of Title and Filing of Patent Application by *Contractor*.

(1) The *contractor* will disclose each subject invention to the *Federal Agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the *contract* under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the *agency*, the *Contractor* will promptly notify the *agency* of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor*.

(2) The *Contractor* will elect in writing whether or not to retain title to any such invention by notifying the *Federal agency* within two years of disclosure to the *Federal agency*. However, in any case where

publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the *agency* to a date that is no more than 60 days prior to the end of the statutory period.

(3) The *contractor* will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The *contractor* will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the *agency*, be granted.

(d) Conditions When the Government May Obtain Title

The *contractor* will convey to the *Federal agency*, upon written request, title to any subject invention—

(1) If the *contractor* fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the *agency* may only request title within 60 days after learning of the failure of the *contractor* to disclose or elect within the specified times.

(2) In those countries in which the *contractor* fails to file patent applications within the times specified in (c) above; provided, however, that if the *contractor* has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the *Federal agency*, the *contractor* shall continue to retain title in that country.

(3) In any country in which the *contractor* decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to *Contractor* and Protection of the *Contractor* Right to File

(1) The *contractor* will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the *contractor* fails to disclose the invention within the times specified in (c), above. The *contractor's* license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the *contractor* is a party and includes the right to grant sublicenses of the same scope to the extent the *contractor* was legally obligated to do so at the time the *contract* was awarded. The license is transferable only with the approval of the *Federal agency* except when transferred to the sucessor of that party of the *contractor's* business to which the invention pertains.

(2) The *contractor's* domestic license may be revoked or modified by the *funding Federal agency* to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and *agency* licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the *contractor* has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the *funding Federal agency* to the extent the *contractor*, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the *funding Federal agency* will furnish the *contractor* a written notice of its intention to revoke or modify the license, and the *contractor* will be allowed thirty days (or such other time as may be authorized by the *funding Federal agency* for good cause shown by the *contractor*) after the notice to show cause why the license should not be revoked or modified. The *contractor* has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and *agency* regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) *Contractor* Action to Protect the Government's Interest

(1) The *contractor* agrees to execute or to have executed and promptly deliver to the *Federal agency* all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the *contractor* elects to retain title, and (ii) convey title to the *Federal agency* when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The *contractor* agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the *contractor* each subject invention made under *contract* in order that the *contractor* can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The *contractor* shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The *contractor* will notify the *Federal agency* of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The *contractor* agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the *contract*) awarded by (identify the Federal agency). The government has certain rights in the invention."

(g) Subcontracts

(1) The *contractor* will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the *contractor* in this clause, and the *contractor* will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The *contractor* will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (*cite section of agency implementing regulations or FAR*).

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the *agency*, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on Utilization of Subject Inventions

The *Contractor* agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the *contractor* or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commerical sale or use, gross royalties received by the contractor, and such other data and information as the *agency* may reasonably specify. The *contractor* also agrees to provide additional reports as may be requested by the *agency* in connection with any march-in proceeding undertaken by the *agency* in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the *agency* agrees it will not disclose such information to persons outside the government without permission of the *contractor*.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the *contractor* agrees that neither it nor any assignee will grant to any person the

exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the *Federal agency* upon a showing by the *contractor* or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commerically feasible.

(j) March-in Rights

The *contractor* agrees that with respect to any subject invention in which it has acquired title, the *Federal agency* has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the *agency* to require the *contractor*, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the *contractor*, assignee, or exclusive licensee refuses such a request the *Federal agency* has the right to grant such a license itself if the *Federal agency* determines that:

(1) Such action is necessary because the *contractor* or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the *contractor*, assignee or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the *contractor*, assignee or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for *contracts* with Nonprofit organizations

If the *contractor* is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the *Federal agency*, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the *contractor*;

(2) The *contractor* will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the *contractor* with respect to subject inventions, after payment of expenses (including payments to inventors) incidential to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the *contractor* determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the *contractor* is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the *contractor*. However, the *contractor* agrees that the Secretary may review the *contractor's* licensing program and decisions regarding small business applicants, and the *contractor* will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the *contractor* could take reasonable steps to implement more effectively the reqirements of this paragraph (k)(4).

(l) Communication

(Complete According to Instructions at 401.5(b))

(b) When the Department of Energy (DOE) determines to use alternative provisions under § 401.3(a)(4), the standard clause at § 401.14(a), above, shall be used with the following modifications unless a substitute clause is drafted by DOE:

(1) The title of the clause shall be changed to read as follows: *Patent Rights to Nonprofit DOE Facility Operators*

(2) Add an "(A)" after "(1)" in paragraph (c)(1) and add subparagraphs (B) and (C) to paragraph (c)(1) as follows:

(B) If the subject invention occurred under activities funded by the naval nuclear propulsion or weapons related programs of *DOE*, then the provisions of this subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). In such cases the contractor agrees to assign the government the entire right, title, and interest thereto throughout the world in and to the subject invention except to the extent that rights are retained by the contractor through a greater rights determination or under paragraph (e), below. The contractor, or an employee-inventor, with authorization of the contractor, may submit a request for greater rights at the time the invention is disclosed or within a reasonable time thereafter. *DOE* will process such a request in accordance with procedures at 37 CFR 401.15. Each determination of greater rights will be subject to paragraphs (h)-(k) of this clause and such additional conditions, if any, deemed to be appropriate by the *Department of Energy*.

(C) At the time an invention is disclosed in accordance with (c)(1)(A) above, or within 90 days thereafter, the contractor will submit a written statement as to whether or not the invention occurred under a naval nuclear propulsion or weapons-related program of the *Department of Energy*. If this statement is not filed within this time, subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). The contractor statement will be deemed conclusive unless, within 60 days thereafter, the Contracting Officer disagrees in writing, in which case the determination of the Contracting Officer will be deemed conclusive unless the contractor files a claim under the Contract Disputes Act within 60 days after the Contracting Officer's determination. Pending resolution of the matter, the invention will be subject to subparagraph (c)(1)(B).

(3) Paragraph (k)(3) of the clause will be modified as prescribed at § 401.5(g).

§ 401.15 Deferred determinations.

(a) This section applies to requests for greater rights in subject inventions made by contractors when deferred determination provisions were included in the funding agreement because one of the exceptions at § 401.3(a) was applied, except that the Department of Energy is authorized to process deferred determinations either in accordance with its waiver regulations or this section. A contractor requesting greater rights should include with its request information on its plans and intentions to bring the invention to practical application. Within 90 days after receiving a request and supporting information, or sooner if a statutory bar to patenting is imminent, the agency should seek to make a determination. In any event, if a bar to patenting is imminent, unless the agency plans to file on its own, it shall authorize the contractor to file a patent application pending a determination by the agency. Such a filing shall normally be at the contractor's own risk and expense. However, if the agency subsequently refuses to allow the contractor to retain title and elects to proceed with the patent application under government ownership, it shall reimburse the contractor for the cost of preparing and filing the patent application.

(b) If the circumstances of concerns which originally led the agency to invoke an exception under § 401.3(a) are not applicable to the actual subject invention or are no longer valid because of subsequent events, the agency should allow the contractor to retain title to the invention on the same conditions as would have applied if the standard clause at § 401.14(a) had been used originally, unless it has been licensed.

(c) If paragraph (b) is not applicable the agency shall make its determination

based on an assessment whether its own plans regarding the invention will better promote the policies and objectives of 35 U.S.C. 200 than will contractor ownership of the invention. Moreover, if the agency is concerned only about specific uses or applications of the invention, it shall consider leaving title in the contractor with additional conditions imposed upon the contractor's use of the invention for such applications or with expanded government license rights in such applications.

(d) A determination not to allow the contractor to retain title to a subject invention or to restrict or condition its title with conditions differing from those in the clause at § 401.14(a), unless made by the head of the agency, shall be appealable by the contractor to an agency official at a level above the person who made the determination. This appeal shall be subject to the procedures applicable to appeals under § 401.11 of this part.

§ 401.16 Submissions and inquiries.

All submissions or inquiries should be directed to Federal Technology Management Policy Division, telephone number 202–377–0659, Room H4837, U.S. Department of Commerce, Washington, DC 20230.

[FR Doc. 87–5618 Filed 3–17–87; 8:45 am]

BILLING CODE 3510–18–M

federal register

Wednesday
March 18, 1987

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 1

Federal Acquisition Regulation (FAR); Interim rule; Correction

Wednesday
March 18, 1992

Federal Register

Part III

Department of Defense

General Services Administration

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Federal Acquisition Regulation (FAR); Interim rule; Correction

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1

Federal Acquisition Regulation (FAR); Correction

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

ACTION: Interim rule; correction.

SUMMARY: This document corrects an interim rule implementing Article 15 of the U.S.-Israel Free Trade Area Agreement published in the Federal Register on Wednesday, August 27, 1986 (51 FR 30619).

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-10218 beginning on page 30618 in the issue of Wednesday, August 27, 1986, make the following correction to FAR 25.402, Policy, to reinsert paragraphs (b) through (e) which were omitted by the incorrect amendatory language in the interim rule, Federal Acquisition Circular 84-22. The amendatory language should have read: "Section 25.402 is amended to revise paragraph (a) to read as follows:". For the convenience of the reader, section 25.402 is set out in its entirety as follows:

25.402 Policy.

(a)(1) Executive Order 12260 requires the U.S. Trade Representative to determine from time to time the dollar threshold for use in implementing the Agreement on Government Procurement. The U.S. Trade Representative's dollar threshold determinations are published in the **Federal Register** and will be distributed through agency procedures on an expedited basis. Except as noted in paragraph (a)(2) of this section, agencies shall evaluate offers at or over the dollar threshold for an eligible product without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3).

(2) As required by Article 15 of the U.S.-Israel Free Trade Area Agreement, agencies other than the Department of Defense shall evaluate offers of Israeli end products at or above $50,000 in amount without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3).

(b) The U.S. Trade Representative has determined that in order to promote further the economic recovery of the Caribbean Basin countries (as defined in 25.401), products originating in those countries which are eligible for duty free treatment under the Caribbean Basin Economic Recovery Act shall be treated as eligible products for the purposes of this subpart (see 51 FR 6964-6965, February 27, 1986). This determination is effective until September 30, 1995, unless otherwise extended by the U.S. Trade Representative by means of a notice in the **Federal Register.**

(c) Except when waived under section 302(b)(2) of the Trade Agreements Act, there shall be no purchases of foreign end products subject to the Act unless the foreign end products are designated country end products or Caribbean Basin country end products.

(d) No requirement for eligible products shall be divided with the intent of reducing the value of the resulting offers below the dollar threshold addressed in paragraph (a) above.

(e) Acquisitions of eligible products are subject to the requirements of Part 6. The use of the authorities cited in 6.302-3(a)(2)(i) or 6.302-7 requires compliance with 6.303-1(d).

Dated: March 9, 1987.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 87-5857 Filed 3-17-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 4

Federal Acquisition Regulation (FAR); Correction

[illegible]

25.402 Policy.

[illegible]

federal register

Wednesday
March 18, 1987

Part IV

Department of Education

34 CFR Part 235

Drug-Free Schools and Communities—Regional Centers Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 235

Drug-Free Schools and Communities—Regional Centers Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations governing the Drug-Free Schools and Communities—Regional Centers Program. This program is authorized by the recently enacted Drug-Free Schools and Communities Act of 1986. Under this program, the Department will establish and maintain five regional centers to provide training and assistance to State educational agencies (SEAs), local educational agencies (LEAs), and institutions of higher education (IHEs) in the implementation of effective alcohol and drug abuse education and prevention programs.

DATES: Comments on these proposed regulations must be received on or before May 4, 1987.

ADDRESSES: All comments should be addressed to Mr. Dick Hays, Chairman, Office of Elementary and Secondary Education (OESE), Drug-Free Schools Task Force, U.S. Department of Education, 400 Maryland Avenue, SW., Mail Stop 6277: Washington, DC 20202. Telephone: (202) 732-4599.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Mr. Allen King, OESE Drug-Free Schools Task Force, U.S. Department of Education, 400 Maryland Avenue, SW., Mail Stop: 6277, Washington, DC 20202. Telephone: (202) 732-4599.

SUPPLEMENTARY INFORMATION:

Background

In enacting the Drug-Free Schools and Communities Act of 1986 ("Act"), the Congress recognized that drug and alcohol abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation. To support that effort, funds are provided under the Act to Governors, State and local educational agencies, and institutions of higher education. In addition, section 4135 of the Act authorizes the funding of five regional alcohol and drug education and prevention centers. These centers will: (1) Train school teams to assess their alcohol and drug abuse problems and institutionalize long term effective programs to address those problems; (2) provide assistance to State educational agencies in coordinating and strengthening alcohol and drug abuse prevention policies and programs; (3) provide assistance to local educational agencies and institutions of higher education in developing pre-service and in-service training programs for educational personnel; and (4) evaluate and disseminate information on effective alcohol and drug abuse prevention programs and strategies.

Under the authority of Subchapter D of the Education Consolidation and Improvement Act of 1981, the Department currently contracts with five regional centers that provide training to school teams. However, the scope of activities authorized by the Drug-Free Schools and Communities Act is considerably broader than team-training. These proposed regulations would ensure that awards under this Act meet these broadened requirements. The Department will also conduct an open competition for awards. Awards will be made through cooperative agreements that give the Department a significant role in planning and monitoring the centers' activities.

The Regional Centers Program is subject to applicable law protecting students' rights in research, experimental programs, and testing. See section 439 of the General Education Provisions Act (20 U.S.C. 1232h) and its implementing regulations in 34 CFR Part 98.

Summary of Major Provisions

Section 235.1 makes clear that the primary purpose of each center is to help schools and communities eliminate alcohol and drug abuse by young people. For example, centers will help clients formulate and enforce school policies against illegal alcohol and drug use.

Section 235.3 requires each regional center to carry out the full range of responsibilities contemplated by the Act. Sections 235.4, 235.5, 235.6, and 235.7 describe more specifically the activities the Secretary will require each center to undertake to fulfill these responsibilities.

The geographic boundaries to be served by each regional center are defined in § 235.8. The Secretary proposes to retain the service areas that have been established for the present regional training centers.

To provide services that are responsive to the needs of each region, the Secretary is proposing that each application contain an assessment of the problems and needs that exist in the schools and communities of that region. This emphasis upon regional needs is reinforced by two of the criteria that will be used to evaluate applications: the adequacy of the applicant's understanding of the problems and needs of its region (§ 235.31(a)) and the quality of the applicant's plan to address these problems and needs (§ 235.31(b)).

To ensure that each center receives ongoing advice from its clientele and provides coordinated and balanced services, the Secretary is also proposing evaluation criteria addressing these issues (§ 235.31(c), (d)).

Finally, applicants must develop a plan to evaluate the center's own effectiveness in eliminating alcohol and drug abuse. A criterion dealing with the quality of the applicant's evaluation plan is included in § 235.31(g).

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. To the extent that these regional centers affect States and State agencies they do not affect small entities. States and State agencies are not considered small entities under the Regulatory Flexibility Act.

The regulations would not have a significant economic impact on the small entities participating in the program because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Section 235.31 contains an information collection requirement. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs,

OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph F. Lackey, Jr.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2135, 400 Maryland Avenue, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 235

Drug abuse, Education, Elementary and secondary education, Grant programs—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.188, Drug-Free Schools and Communities—Regional Centers Program)

Dated: March 13, 1987.

William J. Bennett,
Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding new Part 235 to read as follows:

PART 235—DRUG-FREE SCHOOLS AND COMMUNITIES—REGIONAL CENTERS

Subpart A—General

Sec.

235.1 What is the Drug-Free Schools and Communities—Regional Centers Program?
235.2 Who is eligible for an award?
235.3 What responsibilities must a center carry out with its award?
235.4 What activities must a center conduct in training school teams?
235.5 What activities must a center conduct in assisting SEAs?

Sec.

235.6 What activities must a center conduct in assisting LEAs and IHEs?
235.7 What activities must a center conduct in evaluating and disseminating information?
235.8 What geographic regions do the centers serve?
235.9 What regulations apply?
235.10 What definitions apply?

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

235.30 How does the Secretary evaluate an application?
235.31 What selection criteria does the Secretary use?

Subpart D—What Conditions Must Be Met After an Award?

235.40 What conditions must a center meet in coordinating services throughout its region?
235.41 What other conditions must a center meet?

Authority: 20 U.S.C. 4645, unless otherwise noted.

Subpart A—General

§ 235.1 What is the Drug-Free Schools and Communities—Regional Centers Program?

This program establishes and maintains five regional alcohol and drug abuse education and prevention centers. These centers train school teams, assist State and local educational agencies (SEAs and LEAs) and institutions of higher education (IHEs), and evaluate and disseminate information on effective programs and strategies to combat alcohol and drug abuse. The primary purpose of each center is to help schools and communities eliminate alcohol and drug abuse by young people. For example, centers will help clients formulate and enforce school policies against illegal alcohol and drug use.

[Authority: 20 U.S.C. 4645]

§ 235.2 Who is eligible for an award?

The Secretary may make an award for a regional center to a public or private organization, institution, or agency, or to an individual.

[Authority: 20 U.S.C. 4645]

§ 235.3 What responsibilities must a center carry out with its award?

Each regional center shall use funds awarded by the Secretary to carry out the following responsibilities:

(a) Train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address these problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(b) Assist SEAs in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(c) Assist LEAs and IHEs in developing appropriate pre-service and in-service training programs for educational personnel; and

(d) Evaluate and disseminate information on effective alcohol and drug abuse education and prevention programs and strategies.

[Authority: 20 U.S.C. 4645]

§ 235.4 What activities must a center conduct in training school teams?

(a) In training school teams under § 235.3(a), each center shall provide information and assistance related to—

(1) Developing and enforcing comprehensive school policies against illegal alcohol and drug use;

(2) The causes, symptoms, and effects of alcohol and drug abuse;

(3) Laws governing the use of alcohol and drugs, as well as laws governing school discipline;

(4) Alcohol and drug abuse prevention programs that have been effective in other school districts, including practical assistance in implementing those programs; and

(5) Collecting data that measure how effective each school-based program is in eliminating student alcohol and drug abuse.

(b) Each center shall offer training in locations and at times that are appropriate to the needs of its clients.

[Authority: 20 U.S.C. 4645]

§ 235.5 What activities must a center conduct in assisting SEAs?

In assisting SEAs under § 235.3(b), each center shall provide information and assistance related to—

(a) Developing and enforcing comprehensive school policies against illegal alcohol and drug use;

(b) Assessing the nature and scope of alcohol and drug abuse problems in the schools of the State; and

(c) Developing appropriate pre-service and in-service training programs for educational personnel.

[Authority: 20 U.S.C. 4645]

§ 235.6 What activities must a center conduct in assisting LEAs and IHEs?

In assisting LEAs and IHEs under § 235.3(c), each center shall provide practical assistance to, and promote

cooperative efforts between, those agencies and institutions in—

(a) Developing and improving programs to train educational personnel in alcohol and drug abuse prevention; and

(b) Preparing educational personnel to train other educational personnel in alcohol and drug abuse prevention.

[Authority: 20 U.S.C. 4645]

§ 235.7 What activities must a center conduct in evaluating and disseminating information?

In evaluating and disseminating information under § 235.3(d), each center shall—

(a) Develop appropriate methods for evaluating the effectiveness of programs in preventing alcohol and drug abuse;

(b) Obtain, analyze, and disseminate, as appropriate, data from the center's clients as well as from other sources that can be used to measure the effectiveness of activities conducted by the center in eliminating alcohol and drug abuse; and

(c) Disseminate information to LEAs, SEAs, IHEs, and communities in the region on model programs and strategies to prevent alcohol and drug abuse.

[Authority: 20 U.S.C. 4645]

§ 235.8 What geographic regions do the centers serve?

The regional centers established under this program shall serve the following geographic regions:

(a) Northeast

Connecticut
Delaware
Maine
Maryland
Massachusetts
New Hampshire
New Jersey
New York
Ohio
Pennsylvania
Rhode Island
Vermont

(b) Southeast

Alabama
District of Columbia
Florida
Georgia
Kentucky
North Carolina
Puerto Rico
South Carolina
Tennessee
Virginia
Virgin Islands
West Virginia

(c) Midwest

Indiana
Illinois
Iowa
Michigan
Minnesota
Missouri
Nebraska
North Dakota
South Dakota
Wisconsin

(d) Southwest

Arizona
Arkansas
Colorado
Kansas
Louisiana
Mississippi
New Mexico
Oklahoma
Texas
Utah

(e) West

Alaska
American Samoa
California
Guam
Hawaii
Idaho
Montana
Nevada
Northern Mariana Islands
Oregon
Trust Territory of the Pacific Islands
Washington
Wyoming

[Authority: 20 U.S.C. 4645]

§ 235.9 What regulations apply?

The following regulations apply to the Drug-Free Schools and Communities—Regional Centers Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 235.

[Authority: 20 U.S.C. 4645]

§ 235.10 What definitions apply?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 4141 of the Act:

Drug abuse education and prevention
Illicit drug use
Institution of higher education

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Department
EDGAR
Local educational agency
Private
Public
Secretary
State
State educational agency

(c) *Other definitions.* The following definition also applies to this part:

"Act" means the Drug-Free Schools and Communities Act of 1986.

[Authority: 20 U.S.C. 4645]

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

§ 235.30 How does the Secretary evaluate an application?

(a) To make awards, the Secretary conducts a separate competition for each of the geographic regions described in § 235.8. Within each region the Secretary evaluates an application on the basis of the criteria in § 235.31.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

[Authority: 20 U.S.C. 4645]

§ 235.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Understanding of regional needs.* (10 points) The Secretary reviews each application to determine how adequately the applicant has assessed the alcohol and drug-related problems and needs in its region.

(b) *Plan to address regional needs.* (40 points) The Secretary reviews each application to determine the quality of the applicant's detailed plan to carry out the responsibilities and activities listed in §§ 235.3–235.7 of this part to address the problems and needs of its region.

(c) *Advisory structure.* (10 points) The Secretary reviews each application to determine—

(1) The breadth of representation on the applicant's proposed advisory structure;

(2) The extent to which representatives of appropriate groups have agreed to serve in an advisory capacity; and

(3) The adequacy of the applicant's plans to involve the advisory structure in the activities of the proposed center.

(d) *Coordination with other activities, balance of services.* (10 points) The Secretary reviews each application to determine—

(1) The degree to which the applicant has coordinated with State and regional organizations administering alcohol and drug abuse programs in developing the application;

(2) The adequacy of the applicant's plans for coordination with State, regional, and national alcohol and drug abuse prevention activities; and

(3) The adequacy of the applicant's plans to achieve balance in providing services throughout the region.

(e) *Management plan.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the center, including—

(1) The extent to which the plan is effective and ensures proper and efficient administration of the center;

(2) The manner in which the plan provides for the applicant to use resources and personnel to achieve its objectives;

(3) The adequacy of the resources the applicant plans to use—including facilities, equipment, and supplies;

(4) How the plan will ensure that the center will select participants, who are otherwise eligible to participate, for activities of the center without regard to race, color, national origin, sex, age, or handicapping condition; and

(5) The schedules of work and completion dates for activities identified in the plan.

(f) *Quality of key personnel.* (10 points) (1) The Secretary reviews each application to determine the quality of key personnel proposed for the center, including—

(i) The qualifications of the center director;

(ii) The qualifications of each of the other key personnel;

(iii) The time that each person referred to in paragraphs (f)(1)(i) and (ii) of this section will commit to the center; and

(iv) How the center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, sex, national origin, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (f)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in alcohol and drug abuse education and prevention; and

(ii) Any other qualifications that pertain to the quality of the center's program and services, including the capacity for training, evaluation, and dissemination.

(g) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the applicant's plan to evaluate the effectiveness of the center, including the extent to which the methods of evaluation are appropriate, are objective, and produce data that are quantifiable.

[Authority: 20 U.S.C. 4645]

Subpart D—What Conditions Must Be Met After an Award?

§ 235.40 What conditions must a center meet in coordinating services throughout its region?

In carrying out its general responsibilities under the Act, each center shall—

(a) Actively acquaint SEAs, LEAs, and IHEs with the range of services offered by the center;

(b) Establish an advisory structure that broadly represents the region and includes representatives of SEAs, LEAs, and IHEs, judicial and law enforcement agencies, and Governors of States within the region;

(c) Achieve balance throughout the region in the provision of the center's services;

(d) Coordinate the center's activities with local, State, national, and other regional efforts to combat alcohol and drug abuse; and

(e) Cooperate with the Department, its contractors, and other regional centers in efforts to eliminate alcohol and drug abuse throughout the Nation.

[Authority: 20 U.S.C. 4645]

§ 235.41 What other conditions must a center meet?

Each center must ensure that any materials produced or distributed with funds awarded to the center under the Act reflect the message that illicit drug use is wrong and harmful.

(Authority: 20 U.S.C. 4645)

[FR Doc. 87-5905 Filed 3-17-87; 8:45 am]
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(5) The scheduling of work and completion dates for activities identified in the plan.

(2) *Quality of key personnel.* (10 points) (i) The Secretary reviews each application to determine the quality of key personnel proposed for the center, including—

(A) The qualifications of the center director;

(B) The qualifications of each of the other key personnel;

(C) The time that each person [illegible] [illegible] in paragraphs [illegible] and [illegible] [illegible]

[illegible]

(4) Any other qualifications that pertain to the quality of the center's program and services, including the capacity for training, evaluation, and dissemination.

(g) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the applicant's plan to evaluate the effectiveness of the center, including the extent to which the methods of evaluation are appropriate, are objective, and produce data that are quantifiable.

[illegible]

Subpart E—What Conditions Must Be Met After an Award?

[illegible]

and 1134, which [illegible] [illegible] [illegible] of [illegible]

[illegible]

(c) [illegible]

[illegible]

§ 6??.[illegible] [illegible]

[illegible]

federal register

Wednesday
March 18, 1987

Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 32 and 52

Federal Acquisition Regulation (FAR); Prompt Payment; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32 and 52

Federal Acquisition Regulation (FAR); Prompt Payment

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

ACTION: Proposed rule.

SUMMARY: The proposed rule consolidates under a single procurement regulation the policies and procedures necessary to implement Office of Management and Budget (OMB) Circular A-125, "Prompt Payment." The proposed Subpart 32.9 supersedes the rule proposed previously in the **Federal Register** on July 17, 1986.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 18, 1987, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405. Please cite FAR Case 84-30 in all correspondence related to this issue. For technical questions and policy matters, contact Lt. Col. R. J. Wall, (202) 695-9764; other questions Ms. Margaret A. Willis, FAR Secretariat, (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule consolidates under a single procurement regulation the policies and procedures necessary to implement OMB Circular A-125. When OMB Circular A-125 was initially issued in August, 1982, the Federal agencies had provided corresponding instructions in their individual procurement regulations. These individual procurement regulations were later superseded by the FAR in April, 1984. Because the FAR did not specifically include coverage on OMB Circular A-125, the Federal agencies provided implementing guidance through their respective FAR supplements. Later, as implementation problems surfaced and amendments were issued to OMB Circular A-125, it became increasingly desirable to establish uniform coverage in the FAR.

A proposed rule for FAR Subpart 32.9 was published for public comment on July 17, 1986. Subsequent to that publication, a number of events occurred that were pertinent to the policies and procedures proposed in this subpart. The Senate introduced a legislative initiative to amend the Prompt Payment Act. The House of Representatives Committee on Government Operations issued a report entitled, "Prompt Payment Act Implementation: Improvements Needed." The General Accounting Office issued a report entitled, "Prompt Payment Act—Agencies Have Not Fully Achieved Available Benefits."

These events, when combined with the public comments received, make it necessary to revise the propesed Subpart 32.9 and reissue it for public comment in the **Federal Register** before promulgating a final rule.

B. Regulatory Flexibility Act

Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis has been prepared in accordance with section 603, Title 5, United States Code.

Reasons for Proposed Agency Action

The proposed rule adopts under a single procurement regulation (FAR Subpart 32.9) the requirements of OMB Circular A-125.

Objectives and Legal Basis

OMB Circular A-125 prescribes the policies and procedures to be used throughout the federal government for implementing the Prompt Payment Act. At the outset, agencies had implemented this Circular through individual procurement regulations, such as the FPR and DAR. When these regulations were later superseded by the FAR in April, 1984, no coverage had been provided in the FAR. Therefore, agencies still had to maintain separate directives.

This proposal adopts the necessary coverage in the FAR; thereby eliminating the need for separate agency directives. The proposed rule sets forth the basic requirements of OMB Circular A-125 and allows agency heads to provide additional policies and procedures to the extent authorized.

Description and Estimate of Number of Small Entities to Which the Proposed Rule Will Apply

The proposed rule will apply to all contracts, including those awarded to small business concerns.

Projected Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rule imposes no requirements beyond those that already exist in OMB Circular A-125.

Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

The proposed rule is expected to consolidate the implementing regulations of the various federal agencies into one procurement regulation.

Significant Alternatives

There are no practical alternatives to establishing a new subpart in the FAR in order to implement OMB Circular A-125. With respect to individual policies and procedures contained in the new subpart, agency heads have been given broad authority to adopt alternatives as may be considered appropriate.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Public Law 96-511) does not apply because the proposed FAR revisions do not impose any new information collection requirements that have not already been installed by the agencies to implement OMB Circular A-125.

List of Subjects in 48 CFR Parts 32 and 52

Government procurement.

March 16, 1987.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 32 and 52 are proposed to be amended as set forth below:

1. The authority citation for 48 CFR Parts 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2435(c).

PART 32—CONTRACT FINANCING

2. Part 32 is amended by adding new Subpart 32.9, consisting of sections 32.900 through 32.908 to read as follows:

Subpart 32.9—Prompt Payment

Sec.
32.900 Scope of subpart.
32.901 Applicability.
32.902 Definitions.
32.903 Policy.
32.904 Responsibilities.
32.905 Invoice payments.
32.906 Contract financing payments.
32.907 Interest penalties.
32.908 Contract clause.

Subpart 32.9—Prompt Payment

32.900 Scope of subpart.

This subpart prescribes policies, procedures, and a Prompt Payment clause at 52.232-25 for implementing Office of Management and Budget (OMB) Circular A-125, "Prompt Payment."

32.901 Applicability.

This subpart applies to all Government contracts, except for utility contract (e.g., gas, water, or electricity) where late payment penalties have been established by tariff or state regulatory commission.

32.902 Definitions.

"Invoice payment" means a Government disbursement of monies to a contractor under a contract or other authorization for supplies or services accepted by the Government. For purposes of this subpart, invoice payments also include payments made under the Payments Under Fixed-Price Construction Contracts clause (52.232-5), payments made under the Payments Under Fixed-Price Architect-Engineer Contracts clause (52.232-10), payments for partial deliveries that have been accepted by the Government, and final cost or fee payments where amounts owed have been settled between the Government and the contractor. Invoice payments do not include contract financing payments.

"Contract financing payment" means a Government disbursement of monies to a contractor under a contract clause or other authorization to provide funds on an interim basis prior to completion of the contract. Contract financing payments include progress payments based on cost under the Progress Payments clause (52.232-16), progress payments based on a percentage or stage of completion (32.102(e)(1)) other than those made under the Payments Under Fixed-Price Construction Contracts clause or the Payments Under Fixed-Price Architect-Engineer Contracts clause, advance payments, and interim payments on cost reimbursement type contracts. Contract financing payments do not include invoice payments.

"Designated payment office" means the place designated in the contract to make invoice payments or contract financing payments. Normally, this will be the Government disbursing office.

"Office designated to receive invoices or contract financing requests" means the Government office designated in the contract where the contractor submits invoices and contract financing requests. This might be the Government disbursing office, contract administration office, office accepting the supplies delivered or services performed by the contractor, or contract audit office. In some cases, different offices might be designated to receive invoices and contract financing requests.

"Discounts for prompt payment" means an invoice payment reduction voluntarily offered by the contractor, in conjunction with the Discounts for Prompt Payment clause (52.232-8), if payment is made by the Government prior to the due date.

"Payment date" means the date on which a check is dated or an electronic wire transfer is made.

"Proper invoice" means an invoice which meets the minimum standards specified in the Prompt Payment clause (also see 32.905(b)) and other terms and conditions contained in the contract for invoice submission.

"Receiving report" means written evidence meeting the requirements of 32.905(d) which indicates Government acceptance of supplies delivered or services performed by the contractor (see 46.6).

"Day" means calendar day, unless otherwise indicated. If the day on which an action is required falls on a non-working day (e.g., invoice payment due date on a Saturday or federal holiday), then day means the next working day.

32.903 Policy.

Invoice payments and contract financing payments will be made by the Government as close as possible to, but not later than, the due dates specified in the Prompt Payment clause. Agency procedures shall ensure that, when specifying due dates, full consideration is given to the time reasonably required by Government officials to fulfill their administrative responsibilities under the contract. Checks will be issued and electronic wire transfers will be made on the same day the payment action is dated. When appropriate, Government contracts should allow the contractor to be paid for partial deliveries under the contract that have been accepted by the Government (see 32.102(d)). Discounts for prompt payment offered by the contractor shall be taken only when payments are made within the discount period specified by the contractor. Agencies shall pay an interest penalty, without request from the contractor, for late invoice payments or improperly taken discounts for prompt payment.

32.904 Responsibilities.

Agency heads shall establish policies and procedures necessary to implement this subpart.

32.905 Invoice payments.

(a) Except on contracts for meat and meat food products and for perishable agricultural commodities as set forth in 32.905(c), the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(1) The 30th day after the office designated to receive invoices has received a proper invoice from the contractor or

(2) The 30th day after Government acceptance of supplies delivered or services performed by the contractor.

(i) On a final invoice for any balance of funds due the contractor for supplies delivered or services performed under the contract but where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) For the sole purpose of computing any interest penalty that might be due the contractor, Government acceptance shall be constructively deemed to have occurred on the 5th working day after the contractor has delivered supplies or performed services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. The constructive acceptance provision, however, does not compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities. The contracting officer may specify a longer period for acceptance, if appropriate due to the nature of the supplies or services to be received, inspected, tested, and accepted by the Government.

(b) A proper invoice must include the items listed in (b)(1) through (b)(8) below. If the invoice does not comply with these requirements, then the contractor must be notified of the defect within 15 days after receipt of the invoice at the office designated to receive invoices. If such notice is not timely, then an adjusted due date for the purpose of determining interest penalty, if any, will be established in accordance with 32.907-1(b).

(1) Name and address of the contractor;

(2) Invoice date;

(3) Contract number or other authorization for supplies and services rendered (including order number and contract line item number);

(4) Description, quantity, unit of measure, unit price, and extended price of supplies or services rendered;

(5) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading;

(6) Name and address of contractor official or office to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);

(7) Name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice; and

(8) Any other information or documentation required by other provisions of the contract (such as evidence of shipment).

(c) The payment terms on contracts for meat and meat food products and contracts for perishable agricultural commodities are as follows:

(1) The due date on contractor invoices for meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), as further defined in Pub. L. 98-181, will be the 7th day after product delivery.

(2) The due date on contractor invoices for perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), will be the 10th day after product delivery, unless another date is specified in the contract.

(3) The notice of defect period described in 32.905(b) is 3 days on contracts for meat and meat food products and 5 days on contracts for perishable agricultural commodities.

(d) All invoice payments shall be supported by a receiving report or any other documentation specified in the contract which attests Government acceptance of supplies and services. The receiving report should be forwarded to the designated payment office by the 5th working day after Government acceptance, unless other arrangements have been made. This period of time does not extend the due dates prescribed in this section. The receiving report shall, as a minimum, include the following:

(1) Contract number or other authorization for supplies or services rendered;

(2) Description of supplies or services rendered by contractor;

(3) Quantities received and accepted, if applicable;

(4) Date supplies or services were delivered;

(5) Date supplies or services were accepted by the designated Government official;

(6) Signature, printed name, title, mailing address, and telephone number of the Government official responsible for the receiving report; and

(7) If the contract provides for the use of certified invoices which replace a separate receiving report, the certified invoice must also contain the information described in (d)(1) through (6).

(e) When a discount for prompt payment is to be taken, payment will be made as close to, but not later than, the end of the discount period.

(f) The office designated to receive invoices shall annotate each invoice with the date a proper invoice was received (e.g., date stamp).

32.906 Contract financing payments.

(a) Unless otherwise prescribed in policies and procedures issued by the Agency head, the due date for making contract financing payments by the designated payment office will be the 30th day after the office designated in the contract to receive contract financing requests has received a proper request. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified. Agency heads may prescribe shorter periods for payment, if appropriate based on contract pricing or administrative considerations. For example, a shorter period may be justified by an Agency if the nature and extent of contract financing arrangements are integrated with Agency contract pricing policies. A period shorter than 7 days or longer than 30 days shall not be prescribed.

(b) For advance payments, loans, or other arrangements that do not involve recurrent submission of contract financing requests, payment shall be made in accordance with the applicable contract financing provision or as directed by the contracting officer.

(c) A proper contract financing request must comply with the terms and conditions specified by contract financing clauses or other authorizing provisions. The contractor shall correct any defects in requests submitted in the manner specified in the contract or as directed by the contracting officer.

(d) The office designated to receive contract financing requests shall annotate each request with the date a proper request was received (e.g., date stamp).

32.907 Interest penalties.

32.907-1 Late invoice payment.

(a) An interest penalty shall be paid, without request from the contractor, when all of the following conditions have been met:

(1) A proper invoice has been received by the office designated to receive invoices;

(2) A receiving report has been processed in the manner specified in the contract and there was no disagreement over quantity, quality, or contractor compliance with any contract provision;

(3) If a final invoice for any balance of funds due the contractor for supplies delivered or services performed, the payment amount is not subject to further settlement contract actions between the Government and the contractor; and

(4) The designated payment office paid the contractor more than 15 days after the due date (3 days for meat and meat food products and 5 days for perishable agricultural commodities).

(b) If the designated payment office failed to notify the contractor of a defective invoice within the periods prescribed in 32.905(b) or 32.905(c)(3), then the due date will be adjusted to determine if an interest penalty is owed to the contractor. The adjusted due date shall be established using the following steps:

Step 1: Start with original due date on defective invoice

Step 2: Add number of days allowed to correct invoice

Step 3: Subtract number of days taken beyond prescribed notification of defects period

Step 4: Equals adjusted due date on corrected invoice. Penalties owed the contractor, if any, will be based on this adjusted date.

(c) An interest penalty shall be paid, without request from the contractor, if an improperly taken discount for prompt payment was not corrected within 15 days after the expiration of the discount period (3 days for meat and meat food products and 5 days for perishable agricultural commodities). The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the contractor is paid.

(d) The interest rate shall be the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the Federal Register semiannually on or about January 1 and July 1. This rate is referred to as the "Renegotiation Board Interest Rate." The interest period will be inclusive from the first day after the

due date through the payment date. The interest penalty amount will be separately stated on the check or the designated payment office's accompanying remittance advice. Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the contractor.

(e) If an interest penalty is owed but not paid, the interest penalty will also accrue interest until it is paid. Any interest penalty remaining unpaid for any 30-day period will be added to the invoice amount, if also unpaid, and interest penalties will accrue monthly on the combined amount.

(f) Interest penalties under the Prompt Payment Act will not continue to accrue: (1) After the filing of a claim for such penalties under the Disputes clause (52.233-1) or (2) for more than one year. Interest penalties of less than $1.00 need not be paid.

(g) Interest penalties are not required on payment delays due to disagreement between the Government and contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld in accordance with terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the Disputes clause.

32.907-2 Late contract financing payment.

No interest penalty shall be paid to the contractor as a result of delayed contract financing payments.

32.908 Contract clause.

The contracting officer shall insert the Prompt Payment clause at 52.232-25 in all solicitations and contracts, except as indicated in 32.901. Agency heads are authorized to prescribe alternate clauses which stipulates different due dates on invoice payments and contract financing payments or establish different payment procedures, provided that such alternate clauses meet the standards prescribed in this subpart.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.232-25 is added to read as follows:

52.232-25 Prompt payment.

(a) As prescribed in 32.908, the contracting officer shall insert the Prompt Payment clause shown below.

(b) As prescribed in 32.905(a)(2), the contracting officer may modify the date in paragraph (a)(5)(i) of the clause to specify a period longer than 5 working days for constructive acceptance, if considered appropriate due to the nature of the supplies or services to be received, inspected, tested, and accepted by the Government.

(c) As prescribed in 32.906(a) and only as allowed under Agency policies and procedures, the contracting officer may insert in paragraph (b) of the clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

Prompt Payment (Date 1987)

Notwithstanding any other payment provision in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check or wire transfer is dated. Definitions of pertinent terms are described in FAR 32.902. All days referred to in this clause are calendar days, unless otherwise specified.

(a) *Invoice Payments.*

(1) For purposes of this clause, "invoice payment" means a Government disbursement of monies to a contractor under a contract or other authorization for supplies or services accepted by the Government. Invoice payments also include payments made under the Payments Under Fixed-Price Construction Contracts clause (52.232-5), payments made under the Payments Under Fixed-Price Architect-Engineer Contracts clause (52.232-10), payments for partial deliveries that have been accepted by the Government, and final cost or fee payments where amounts owed have been settled between the Government and the contractor.

(2) Except as indicated in (a)(3) below, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(i) The 30th day after the Government office designated to receive invoices has received a proper invoice from the contractor or

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. However, on a final invoice for any balance of funds due the contractor for supplies delivered or services performed under the contract but where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(3) The due date on contracts for meat and meat food products and contracts for perishable agricultural commodities shall be as follows:

(i) The due date for meat and meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) and further defined in Pub. L. 98-181 to include poultry, poultry products, eggs, and egg products, will be the 7th day after product delivery.

(ii) The due date for perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(44)), will be the 10th day after product delivery, unless another date is specified in the contract.

(4) An invoice is the Contractor's written request for payment under the contract for supplies delivered or services rendered to the Government. An invoice shall be prepared and submitted to the office designated in the contract to receive invoices. A proper invoice must include the items listed in paragraphs (a)(4)(i) through (a)(4)(viii) below. If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 15 days after receipt of the invoice at the office designated to receive invoices. Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in paragraph (a)(5)(iii).

(i) Name and address of the Contractor;

(ii) Invoice date;

(iii) Contract number or other authorization for supplies and services rendered (including order number and contract line item number);

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies or services rendered;

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading;

(vi) Name and address of Contractor official or office to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);

(vii) Name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice; and

(viii) Any other information or documentation required by other provisions of the contract (such as evidence of shipment).

(5) An interest penalty shall be paid by the Government, without request from the Contractor, if payment is not made within 15 days after the due date (3 days for meat and meat food products and 5 days for perishable agricultural commodities). An interest penalty shall also be paid, without request from the contractor, if an improperly taken discount for prompt payment was not corrected within 15 days after the expiration of the discount period (3 days for meat and meat food products and 5 days for perishable agricultural commodities). The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the contractor is paid.

(i) If an interest penalty is owed but not paid, the interest penalty will also accrue interest until it is paid. Any interest penalty remaining unpaid for any 30-day period will be added to the invoice amount, if also unpaid, and interest penalties will accrue monthly on the combined amount.

(ii) For purposes of computing any interest penalty that might be due the Contractor, Government acceptance shall be constructively deemed to have occurred on the 5th working day after the Contractor delivered the supplies or completed performance of the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity,

quality, or contractor compliance with a contract provision. The constructive acceptance provision, however, does not compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(iii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 15 days (3 days for meat and meat food products and 5 days for perishable agricultural commodities); and

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(iv) The interest rate shall be the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest period will be inclusive from the first day after the due date through the payment date. Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the contractor.

(b) *Contract financing payments.*

(1) For purposes of this clause, "contract financing payment" means a Government disbursement of monies to a contractor under a contract clause or other authorization to provide funds on an interim basis prior to completion of the contract. Contract financing payments include progress payments based on cost under the Progress Payments clause (52.232-16), progress payments based on a percentage or stage of completion (32.102(e)(1)) other than those made under the Payments Under Fixed-Price Construction Contracts clause or the Payments Under Fixed-Price Architect-Engineer Contracts clause, advance payments, and interim payments on cost reimbursement type contracts.

(2) For contracts that include provisions for contract financing, requests for payment shall be submitted to the office designated to receive contract financing requests as specified in this contract or as directed by the contracting officer. Contract financing payments shall be made on the *(insert day as prescribed by Agency head; if not prescribed, insert 30th day)* day after receipt of a proper contract financing request by the office designated to receive contract financing requests. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified. For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract provisions or as directed by the contracting officer. Contract financing payments shall not be assessed an interest penalty for payment delays.

(End of clause)

Alternate I (Date: 1987). If payment may be made through electronic wire transfer, insert the following as paragraph (c) to the above clause:

(c) Electronic Wire Transfer. Payments under this contract will be made by the Government either by check or wire transfer (through the Treasury Financial Communications System (TFCS) or the Automated Clearing House (ACH)), at the option of the Government.

(1) For payment through TFCS, the contractor shall include the following information with each invoice of $25,000 or more (excluding prompt payment discount):

(i) Name, address, and telegraphic abbreviation of the financial institution receiving payment;

(ii) The American Bankers Association 9-digit identifying number of the financial institution receiving payment if the institution has access to the Federal Reserve Communications System;

(iii) Payee's account number at financial institution where funds are to be transferred; and

(iv) If financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains electronic funds transfer messages. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(2) For payment through ACH, the contractor shall include the following information with each invoice:

(i) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for TFCS);

(ii) Number of account to which funds are to be deposited;

(iii) Type of depositor account ("C" for checking, "S" for savings);

(iv) If the contractor is a new enrollee to the ACH system, an SF1199A, "Direct Deposit Sign-up Form," must be completed before payment can be processed. Contractors can obtain this form at any financial institution

[FR Doc. 87-5800 Filed 3-17-87; 8:45am]

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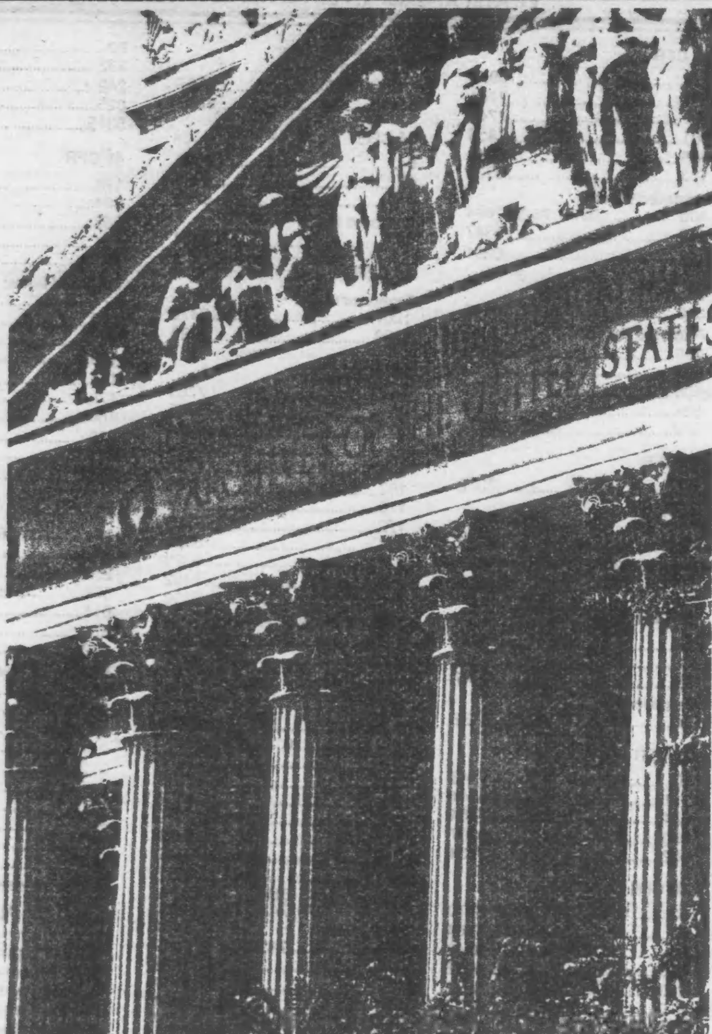

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