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Presidential Documents

Title 3—

The President

Executive Order 12565 of September 25, 1986

Prescribing a Comprehensive System of Financial Reporting for Officers and Employees in the Executive Branch

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 7301(a) of title 5 of the United States Code, and section 207(a) of title 5 of the United States Code Appendix 4, as amended, and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. Executive Order No. 11222 of May 8, 1965, as amended, is further amended by:

(a) Striking section 306 of part III;

(b) Striking sections 401–406 of part IV and inserting in lieu thereof:

"Section 401. *Policy.* In order to maintain public confidence in the integrity of the Government and to preserve and promote ethical standards, a system of non-public (confidential) financial reporting shall be established for officers and employees of the Executive Branch. Such non-public (confidential) reporting shall complement the public financial disclosure system established by title II of the Ethics in Government Act of 1978, as amended.

Section 402. *Definition.* For purposes of this Part, the term

(a) The "Act" refers to the Ethics in Government Act of 1978, as amended.

(b) "Employee" means any officer or employee of an agency, including a special Government employee (as defined in 18 U.S.C. sec. 202(a)).

(c) "Executive Branch" includes each Executive agency (as defined in 5 U.S.C. sec. 105) and any other entity or administrative unit in the Executive Branch unless such agency, entity or unit is specifically included in the coverage of title I or III of the Act.

Section 403. *Comprehensive System of Financial Reporting.* There shall be a comprehensive system of financial reporting for employees in the Executive Branch pursuant to title II of the Act. Such comprehensive system shall require—

(a) Reports subject to public disclosure by those employees whose positions are covered under section 201 of the Act; and

(b) Non-public (confidential) reports by those employees whose positions have been designated for this purpose pursuant to section 404 of this Part. These reports shall be held in confidence as required by section 207 of the Act and as authorized by the Freedom of Information Act at 5 U.S.C. sec. 552(b) (3), (4) and (6). Any disclosure of the reports must satisfy the terms of the Privacy Act at 5 U.S.C. sec. 552a.

Section 404. *The Office of Government Ethics.* Notwithstanding any other provision of this Order, the Office of Government Ethics shall be responsible for administering this part by—

(a) Developing, in consultation with the Attorney General and the Office of Personnel Management, regulations setting forth (1) criteria for the guidance of agencies of the Executive Branch in designating the positions for which non-public (confidential) reports will be required and the type of information to be obtained in such reports in light of applicable conflict of interest statutes and

regulations and the authorized activities of each agency; and (2) the time and place for submission of such reports;

(b) Assuring that each agency of the Executive Branch designates its respective positions for which non-public reports will be required from employees holding such positions; and

(c) Assuring that implementing regulations issued by the agencies of the Executive Branch are properly administered."

Sec. 2. *Savings Provision.* To preserve the confidentiality of the current system of financial reporting, financial reports filed pursuant to the authority of Executive Order No. 11222, 5 C.F.R. Part 735, and individual agency regulations in which confidentiality for such reports has been assured shall continue to be held in confidence.

Ronald Reagan

THE WHITE HOUSE,
September 25, 1986.

[FR Doc. 86-22140
Filed 9-26-86; 10:12 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 100 and 103

Statement of Organization; Powers and Duties of Service Officers and Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule changes the name of the Regional Adjudications Centers to Regional Service Centers in order to more accurately reflect the broadened functions of the Centers.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT:
For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, N.W. Washington, D.C. 20536, Telephone: (202) 633-3048
For Specific Information: Lloyd W. Sutherland, Sr. Immigration Examiner, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone: (202) 633-3946

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service has four Regional Adjudications Centers located in St. Albans, Vermont; Dallas, Texas; Lincoln, Nebraska; and San Ysidro, California. These Centers originally were staffed only by personnel from the Adjudications Program, and the functions performed were limited to adjudicative activities. The Service is now in the process of broadening the role of the Centers to include records, automation and administrative functions. Consequently, the name of the Centers is being changed to Regional Service Centers to more accurately describe the functions of these units.

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

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have significant economic impact on substantial number of small entities. This is not a rule within the definition of section 1(a) of E.O. 12291 as it relates to agency organization and management.

List of Subjects

8 CFR Part 100

Administrative practice and procedure, Organization and functions (government agencies).

8 CFR Part 103

Administrative practice and procedure, Authority delegations (government agencies).

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

PART 100—STATEMENT OF ORGANIZATION

1. The authority citation for Part 100 of Title 8 continues to read as follows:

Authority: Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103.

2. In § 100.4, paragraphs (a) and (e) are revised to read as follows:

§ 100.4 Field Service.

* * * * *

(a) The Eastern Regional Office, located in Burlington, Vermont, has jurisdiction over districts 2, 3, 4, 5, 7, 21, 22, 25, and 27; Border Patrol Sectors 1, 2, 3, 4; and the Regional Service Center in St. Albans, Vermont. The Southern Regional Office, located in Dallas, Texas, has jurisdiction over districts 6, 14, 15, 20, 26, 28, 38, and 40; Border Patrol Sectors 15, 16, 17, 18, 19, 20, 21; and the Regional Service Center in Dallas, Texas. The Northern Regional Office, located in Fort Snelling, Twin Cities, Minnesota, has jurisdiction over districts 8, 9, 10, 11, 12, 19, 24, 29, 30, 31, and 32; Border Patrol Sectors 5, 6, 7, 8, 9; and the Regional Service Center in Lincoln, Nebraska. The Western Regional Office, located in San Pedro, California, has jurisdiction over districts 13, 16, 17, 18, and 39; Border Patrol Sectors 10, 11, 12, 13, 14; and the Regional Service Center in San Ysidro, California.

* * * * *

(e) Regional Service Centers are situated at the following locations.

St. Albans, Vermont
Dallas, Texas
Lincoln, Nebraska
San Ysidro, California

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

3. The authority citation for Part 103 continues to read:

Authority: Sec. 103 of the Immigration and Nationality Act, as amended 8 U.S.C. 1103.

4. In § 103.1, paragraph (s) is revised to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(s) *Regional Service Center Directors.* Under the direction of their respective regional commissioners, Regional Service Center directors have program, administrative, and supervisory responsibility for all personnel assigned to their centers. Regional Service Center directors are delegated the authority and responsibility to approve or deny any application or petition filed or sent to their centers.

Dated: September 23, 1986.

Harriet B. Marple,
Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-22004 Filed 9-26-86; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. 86-064]

Viruses, Serums, Toxins, and Analogous Products; Revision of Packaging and Labeling Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction concerning the revision of the special additional requirements for packaging and labeling animal biologics appearing in a final rule captioned "Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling and Standard Requirements," which was published in the Federal Register on May 14, 1985 (50 FR 20085).

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6332.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service, USDA, promulgated regulations revising the labeling recommendations for veterinary biological products on May 14, 1985 (50 FR 20085). The recommendation that inactivated rabies vaccine be injected in one site in the thigh, and the statement that "in high risk areas annual revaccination is recommended" were to have been deleted. This was not done in the case of the annual revaccination recommendation. Therefore, § 112.7(c)(4) of the regulations should be deleted. Also, § 112.7(c)(3) should be deleted because the same subject matter is covered by § 112.7(c)(2).

Other revisions of the regulations resulted in reparagraphing. The requirements in 9 CFR 112.7(m) for a cautionary statement to be included on labels for modified live virus canine hepatitis and modified live virus canine adenovirus Type 2 products regarding corneal opacity was revised and the section designation was changed to 9 CFR 112.7(1). Therefore, this document removes 9 CFR 112.7(m) which should have been deleted.

PART 112—PACKAGING AND LABEL REQUIREMENT

Accordingly, 9 CFR Part 112 is corrected as follows:

1. The authority citation for Part 112 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

§ 112.7 [Corrected]

2. For the reasons set out in the Supplementary Information, § 112.7 *Special additional requirements,* is corrected as follows:

In § 112.7, paragraphs (c) (3) and (4) and (m) are removed.

Done at Washington, DC, this 24th day of September, 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–21959 Filed 9–26–86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL ELECTION COMMISSION

11 CFR Part 7

[Notice 1986–9]

Standards of Conduct for Agency Employees

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted regulations setting forth Standards of Conduct governing the conduct of Commissioners, employees, special Commission employees, and former employees. This new part implements the Ethics in Government Act of 1978 (Pub. L. 95–521) and other laws and regulations dealing with Federal employee standards of conduct. These regulations seek to facilitate the proper performance of Commission business and to encourage citizen confidence in the impartiality and integrity of the Commission.

Specifically, this part sets forth regulations pertaining to the acceptance of gifts, entertainment, and favors; outside employment; teaching, lecturing, and writing; business and financial interests; political and other outside activities; and the use of Government information and property. In addition, the rules provide procedures for enforcing the post-employment restrictions of the Ethics in Government Act of 1978. These regulations also provide for an Ethics Officer for the Commission whose duties include the investigation of suspected violations of this Part and the maintenance of an interpretation and advisory service to answer questions concerning conflicts of interest and other matters covered by this Part.

The regulations incorporate the Commission's current *Code of Ethics* with the exception of Section D of the *Code.* In addition, they generally follow similar provisions contained in Executive Order 11222, 30 FR 6469, at 5 CFR 735.101 through 735.306, and at § 737.27. Executive Order 11222, issued on May 21, 1965, prescribes standards of ethical conduct for Executive agency personnel. 5 CFR 735.101 through 735.306 contain regulations promulgated by the Office of Government Ethics as model standards of responsibilitis and conduct for Executive agency employees and special employees, pursuant to Executive Order 11222 and to the Ethics in Government Act. 5 CFR 737.27 provides procedures for administrative enforcement proceedings concerning violations of the post employment conflict of interest restrictions contained in 18 U.S.C. 207.

EFFECTIVE DATE: October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463. (202) 376–5690 or Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: On October 21, 1985, the Commission published a Notice of Proposed Rulemaking regarding its proposal to adopt formally regulations setting forth Standards of Conduct governing the conduct of Commissioners, employees, special Commission employees, and former employees. One comment, from the Office of Government Ethics (OGE), was received.

Having considered the comment received, the Commission is now publishing the final rules, together with a statement explaining their basis and purpose in accordance with the Administrative Procedure Act, 5 U.S.C. 553(c). The final rules reflect several clarifying changes from the draft rules.

In its comments OGE urged the Commission to establish a regulatory system for reviewing public financial disclosure reports filed by Commission members and personnel for potential conflicts of interest. The Commission construed this suggestion as one calling for an ongoing review system. Nothing in the model ethics regulations prescribed by OGE addresses this issue. The Commission could find no other agencies which have a written regulatory review procedure for these reports. Because the actual number of reports submitted within the Commission is less than one dozen, the informal review process now being used has been found to be responsive to the goal of maintaining high ethical standards. When conflicts arise, recusal by the interested parties remedies them. Therefore, the Commission will continue to handle such matters as it has in the past.

The Commission has also decided not to include in these rules provisions concerning the filing of confidential statements of financial interests by employees below the GS–16 level pursuant to the Ethics in Government Act as amended, pending OGE development of concrete guidelines as to the extent, shape and form of such confidential financial statements and/or

the publication by OGE of model regulations in this regard.

OGE's final comment on the Commission's proposed regulations was that the Commission had failed to confer with that Office prior to publication. During its consideration of the Notice of Proposed Rulemaking, the Commission considered whether it should submit the proposed rules to OGE prior to publication. Since there is no legal requirement that the Commission comply with such a request, the Commission did not do so. Moreover, the notice procedure granted OGE adequate opportunity to review and comment on the proposed regulations. Therefore, any failure to submit the regulations to OGE prior to publication does not provide a basis for challenging the validity of the regulations.

Basis and Purpose of the Regulations Governing Standards of Conduct, 11 CFR Part 7

Subpart A—General Provisions

Subpart A sets forth general provisions applicable to all employees of the Commission regarding rules of conduct. It also explains the process by which employees, special Commission employees, and new employees are to be notified of these standards of conduct, sets up an interpretation and advisory service provided by the Ethics Officer, and specifies the procedures for reporting and handling suspected violations of this Part and the possible disciplinary and remedial action which can be taken against violators.

Section 7.1 Purpose and applicability.

The first two sentences of section 7.1(a) are taken from the preamble to the Commission's *Code of Ethics*. The remainder summarizes the substance of Part 7, relating the importance of the prescribed eithical standards to the Commission's administration of federal election law. Paragraphs 7.1(b) and (c) make clear that the provisions of Part 7 apply to employees and special Commission employees, cross-reference Executive Order 11222 and 5 CFR Part 735, and state that Part 7 is to be construed as being in accord with any applicable laws, regulations and labor-management agreement between the Commission and a labor organization. The language of § 7.1(b) has been modified since publication of the Notice of Proposed Rulemaking by the substitution of "employee" for "regular employee" and "special Commission employee" for "special Government employee", thereby bringing this paragraph into conformity with the definitional language at § 7.2.

Section 7.2 Definitions.

The definitions at § 7.2 (b), (c), (g), and (h) follow from the Commission's *Code of Ethics*, Subpart A section 2 (a), (b), and (d), and Subpart B section 2(a). The definition of "Designated Agency Ethics Officer" or "Ethics Officer" at § 7.2(d) follows 5 CFR 734.105(d). The definition of "employee" at § 7.2(e) is based on both the Code of Ethics, Subpart A section 2(c), and on 5 CFR 735.102(b). At § 7.2(f), the definition of "former employee" is derived from the policy governing post employment activities adopted by the Commission on February 8, 1980, and from 5 CFR 737.3(a)(4). The definition of "person" at § 7.2(i) is based in part on the *Code of Ethics*, Subpart A section 2(e), and on 5 CFR 735.102(d). Since the Notice of Proposed Rulemaking, the Commission has added "political committee" to the definition of "person" in accordance with the definition of "person" contained in the Federal Election Campaign Act of 1971, as amended. *See* 2 U.S.C. 431(11). "Special Commission employee" is defined at § 7.2(j) in accordance with the *Code of Ethics*, Subpart A section 2(f), and 5 CFR 735.102(e).

Section 7.3 Notification to employees and special Commission employees.

Paragraph 7.3(a) sets out the intention of the Commission to inform each Commission employee and special employee of the provisions of Part 7. This paragraph follows 5 CFR 735.104(b) (2) and (4).

Paragraph 7.3(b) provides that the Commission will inform each new Commission employee and special Commission employee of the provisions of Part 7 at the time of entrance of duty. It is based on 5 CFR 735.104(b)(3).

Secton 7.4 Interpretation and advisory service.

This section identifies the General Counsel, who serves as the Commission's Ethics Officer, as the proper source of advice and guidance for both Commissioners and employees on questions arising under Part 7. Commissioners have been added to those covered by this provision since publication of the Notice of Proposed Rulemaking. This section is based on 5 CFR 735.105(b) and the Commission's *Code of Ethics*, Subpart D section 4.

Section 7.5 Reporting suspected violations.

Paragraph 7.5(a) establishes the procedure for reporting a suspected violation of Part 7. Any suspected violation is to be reported to the Ethics Officer in writing. This paragraph follows the Commission's *Code of Ethics*, Subpart D section 3, except that the Ethics Officer replaces the Staff Director as the recipient of reports. This paragraph is also based in part on 5 CFR 735.106(b).

Paragraph 7.5(b) provides employees with an opportunity to explain a conflict of interest, or the appearance thereof, in writing. This paragraph is based in part on 5 CFR 735.106(c). The references to "Subpart D of this Part" and to "information from other sources" contained in the Notice of Proposed Rulemaking have been deleted as a result of the Commission's decision not to prescribe rules pertaining to public financial disclosure reports until such time as the Office of Government Ethics publishes model regulations on confidential financial disclosure. "Information available to the Commission" has been added as clarifying language.

Section 7.6 Disciplinary and other remedial action.

Paragraph 7.6(a) asserts the Commission's authority to take appropriate disciplinary action, in addition to any penalty prescribed by law, in the event of violation of this Part by an employee or special Commission employee. This paragraph is based in part on 5 CFR 735.107(a) and on the Code of Ethics, Subpart D section 1(a).

Paragraph 7.6(b) establishes procedures to be followed after a determination by the Ethics Officer that an employee may have, or appears to have, a conflict of interest, and delineates the supervisory personnel who are to be involved in this process. The employee's supervisor and division head are included as persons with the most direct knowledge of the employee and his or her work. Since publication of the Notice of Proposed Rulemaking, the Staff Director has been added to the supervisors to be involved in disciplinary and other remedial actions for those employees outside the Office of General Counsel. This paragraph is based in part on the *Code of Ethics*, Subpart D section 1(a) and on 5 CFR 735.106 (b) and (c).

Paragraph 7.6(c) outlines possible forms of remedial action which the Commission may take in situations of conflicts of interest. This paragraph is based on the *Code of Ethics*, Subpart D section 1(b), and 5 CFR 735.107(b).

Subpart B—Conduct and Responsibilities of Employees and Commissioners.

Subpart B establishes standards of conduct and responsibilities for

Commissioners and employees. It offers general rules regarding Commissioner and employee conduct and lists categories of unacceptable activities. Procedures for submission of outside employment requests by employees are also included.

Section 7.7 Prohibited conduct—general.

Paragraph 7.7 sets forth general proscriptions on certain categories of Commissioner and employee actions. This paragraph follows 5 CFR 735.201(a).

Section 7.8 Gifts, entertainment and favors.

Paragraph 7.8(a) prohibits a Commissioner or employee from soliciting or accepting, directly or indirectly, anything of monetary value from particular categories of persons. This paragraph is based on the *Code of Ethics,* Subpart B section 1(a), and on 5 CFR 375.202(a).

Paragraph 7.8(b) sets out exceptions to the prohibitions established at § 7.8(a). It generally follows the *Code of Ethics,* Subpart B section 1(b), and 5 CFR 735.202(b).

Paragraph 7.8(c) prohibits, with certain exceptions, solicitation of contributions by a Commissioner or employee of another employee for a gift to someone in a superior position, the making of a donation as a gift to an official superior or the acceptance of such a gift from someone receiving less pay than the recipient. This paragraph is based on the *Code of Ethics,* Subpart B section 1(c) and on 5 CFR 735.202(d).

Since publication of the Notice of Proposed Rulemaking, "a Commissioner" has been added to those who are prohibited by § 7.8(d) from accepting things of value from a foreign government. This provision is based on 5 CFR 735.202(e).

Paragraph 7.8(e) concerns acceptance of reimbursements from other than Commission funds for travel expenses incurred on official business by Commissioners or employees. It cites Decision B–128527 of the Comptroller General dated March 7, 1967, (46 Comp. Gen 689), interpreting 18 U.S.C 209 which provides that a Federal employee may be compensated for his or her official duties only by the United States Government. *See also* 36 Comp. Gen. 268 (1956). According to Decision B–128527, an agency without statutory authority to accept gifts may not accept reimbursement by a private source for an officer's or an employee's travel, subsistence, or other expenses because such reimbursement would constitute augmentation of appropriations. The Commission does not have such statutory gift acceptance authority. 18 U.S.C. 209 does contain exceptions to this general rule; the exceptions relevant to the Commission permit acceptance of compensation from a state or local government, and the acceptance of traveling expenses from certain tax exempt organizations under the Government Employees Training Act (5 U.S.C. 4111).

Since publication of the Notice of Proposed Rulemaking, "a Commissioner" has been added to those covered by § 7.8(e). This provision is based on 5 CFR 735.202(f).

Section 7.9 Outside employment or activities.

Paragraph 7.9(a) prohibits a Commissioner from devoting a substantial portion of his or her time to any other business, vocation or employment. It is based on 2 U.S.C. 437c(a)(3) and in part on the *Code of Ethics,* Subpart B section 2(a). The *Code* incorporates language contained in the Conference Report on the 1976 amendments to the Federal Election Campaign Act. Commenting on 2 U.S.C. 437c(a)(3) which states that " . . . members of the Commission shall not engage in any other business, vocation, or employment", the Conference Report found that " . . . the requirement is intended to apply to members who devote a *substantial* portion of their time to such business, vocation, or employment activities. The conferees, however, do not intend the requirement to apply to the operation of a farm, for example, if a *substantial* portion of time is not devoted to such operation." H.R. Rep. No. 94–1057, 94th Cong. 2d Sess. 34 (1976) (emphasis added).

Paragraph 7.9(b) prohibits an employee from engaging in outside employment that is not compatible with his or her Government employment and not in compliance with any labor-management agreement between the Commission and a labor organization. This paragraph differs from its counterpart in the Notice of Proposed Rulemaking in that its language has been broadened to cover any labor-management agreement between the Commission and a labor organization rather than a specific agreement entered into with a particular labor organization. Paragraphs 7.9(b) (1)–(10) provide examples of the types of outside employment which are deemed incompatible with employment by the Commission. This listing is not all inclusive. These paragraphs are based in part on 5 CFR 735.203(a), and on the *Code of Ethics,* Subpart B section 2(b) (1) and (2), and (c).

Paragraph 7.9(c) is based on 5 CFR 735.203(b). (*See also* discussion of Paragraph 7.8(e).)

Paragraph 7.9(d) establishes parameters regarding the information which employees may use when engaging in lawful teaching, lecturing and writing in either a paid or voluntary capacity. It is based in part on the *Code of Ethics,* Subpart B Section 2(b)(2)(A), and on 5 CFR 735.203(c).

Paragraph 7.9(e) is based on the *Code of Ethics,* Subpart B section 2(b)(2)(B) and on 5 CFR 735.203(e).

Paragraph 7.9(f) contains the requirement that an employee wishing to engage in outside employment obtain prior approval. In the case of employees of the Office of General Counsel, such approval must come from the General Counsel/Ethics Officer, while all other employees must first obtain the approval of the Staff Director and then that of the Ethics Officer. The language of this paragraph has been altered from that of the Notice of Proposed Rulemaking in order to clarify that an employee of the Office of General Counsel must obtain approval from the General Counsel who also serves as the Ethics Officer, i.e., approval is to be obtained from one individual acting in two separate capacities. Paragraph 7.9(f) also outlines the information to be supplied when making a written request for permission to engage in outside employment, provides that the employee will receive a response approving or disapproving his or her written request pursuant to the provisions of any labor-management agreement in effect between the Commission and a labor organization, and states that a record of the approval is to be placed in the employee's official personnel folder. The language regarding any labor-management agreement differs from that contained in the Notice of Proposed Rulemaking in its applicability to any such agreement rather than to a specific agreement with a particular labor organization. This paragraph is based primarily on the *Code of Ethics,* Subpart B section 2(b)(1).

Section 7.10 Financial interests.

This section establishes parameters for financial transactions and interests in which Commissioners and employees may engage, and provides for full disclosure and for self-disqualification from proceedings and decision-making where a financial interest is, appears to be, or could be affected.

Paragraph 7.10(a)(1) is based on 5 CFR 735.204(a)(2) and the *Code of Ethics,* Subpart B section 3(a).

Paragraph 7.10(a)(2) is based on 5 CFR 735.204(a)(1), and on the *Code of Ethics*, Subpart B, section 3(b). The language concerning full disclosure and disqualification contained in the Notice of Proposed Rulemaking has been revised to include Commissioners among those covered by this provision. For Commissioners and others required to file public financial disclosure reports pursuant to the Ethics in Government Act, "full disclosure" will be deemed to have been met by the filing of those reports. Employees not required to file public financial disclosure reports must submit a written statement to the Ethics Officer disclosing any particular financial interest which creates, or appears to create, a conflict of interest. Such a procedure will be necessary until such time as the Commission promulgates rules, following publication of model regulations by the Office of Government Ethics, regarding which employees are to file confidential financial disclosure reports and what those reports are to contain.

Paragraph 7.10(a)(3) is based on the *Code of Ethics*, Subpart B section 3(c).

Paragraph 7.10(b) follows 5 CFR 735.204(b).

Section 7.11 Political and organization activity.

This section, as noted at § 7.11(a), contains special restrictions on political activities imposed upon Commissioners and Commission employees. These restrictions are in addition to those imposed by the Hatch Act, 5 U.S.C. 7324, *et seq.*, and arise out of the Commission's special role in the political process.

Under paragraph 7.11(a)(1), Commissioners and employees should neither publicly support nor work for a candidate, political party, or political committee within the Commission's jurisdiction; moreover, the paragraph states that contributing to a candidate, party or committee subject to the Commission's jurisdiction is likely to result in a conflict of interest. This paragraph is based in part on the *Code of Ethics*, Subpart B, section 6(a)(1). The final sentence in section 6(a)(1) of the *Code* has been deleted as redundant.

Paragraph 7.11(a)(2) is based on the *Code of Ethics*, Subpart B section 6(a)(2).

Paragraph 7.11(b) follows the *Code of Ethics*, Subpart B section 6(b).

Paragraph 7.11(c) generally follows the *Code of Ethics*, Subpart B section 6(c).

Paragraph 7.11(d) is designed to prevent circumvention of the restrictions of this section through third parties by making an employee accountable for the political activities of another person acting as the employee's agent or under his or her direction. This paragraph is based on the *Code of Ethics*, Subpart B section 6(d).

Section 7.12 Membership in associations.

Although Commissioners and employees are not prohibited from becoming members of non-governmental associations or organizations, this section provides that they must avoid activities on behalf of such associations or organizations which are incompatible with their official Commission positions. This section is based on the *Code of Ethics*, Subpart D section 2.

Section 7.13 Use of Government property.

This section is based on the *Code of Ethics*, Subpart B section 4, and on 5 CFR 735.205.

Section 7.14 Prohibition against making complaints and investigations public.

This section warns Commission employees of the provisions of 2 U.S.C. 437g(a)(12) (A) and (B) which prohibit making public any notification or investigation of an enforcement matter before the Commission without the written consent of the person complained against or being investigated. The statute provides for monetary penalties to be levied against any Commissioner, employee or other person who breaches this requirement of confidentiality. This section is based on the *Code of Ethics*, Subpart B section 7, although the final line of the latter provision has been deleted as unclear.

Section 7.15 Ex parte communications.

The purpose of this section is to avoid any real or apparent prejudice to the public interest in enforcement actions before the Commission. This provision is intended to govern the internal procedures of the Commission; thus, it differs in emphasis, although not in effect, from the prohibition on ex parte communications at 11 CFR 111.22, which is directed at persons outside the Commission as well as at Commissioners and employees. Paragraph § 7.15(a) is based upon the *Code of Ethics*, Subpart B section 8(a), except that the prohibitions in the *Code* directed at persons outside the Commission have been deleted as outside the scope of these regulations.

Paragraph 7.15(b) establishes the time frame during which the prohibition against ex parte communications established by this section is in effect. It follows the *Code of Ethics*. Subpart B section 8(b).

Paragraph 7.15(c) requires that any written communication prohibited by § 7.15(a) be delivered to the Ethics Officer who is required to place it in the file of the enforcement matter involved. This paragraph is based on the *Code of Ethics*, Subpart B section 8(c), except that the reference to "Staff Director" in the *Code* has been changed to "Ethics Officer".

Paragraph 7.15(d) outlines the responsibilities of Commissioners and employees who are the targets of ex parte communications. This paragraph is based on the *Code of Ethics*, Subpart B section 8(d).

The Commission received no responses to its question in the Notice of Proposed Rulemaking as to whether it should propose regulations governing ex parte communications in areas of its operations other than enforcement, e.g., with regard to advisory opinions and proposed regulations. Therefore, no such additional regulations are being prescribed at this time.

Section 7.16 Miscellaneous statutory provisions.

This section draws the attention of the employee to a series of statutory provisions which relate to his or her conduct as an employee. These statutory provisions are listed in the *Code of Ethics*, Subpart B section 10(a) through 10(o), and at 5 CFR 735.210(b) through 210(q), and are also reflected in Subpart D of this Part.

Subpart C—Conduct and responsibilities of special Commission employees.

This Subpart pertains to the conduct of special Commission employees as defined at section 7.2(j). The regulations include prohibitions on the misuse of Commission employment or inside information for unlawful private gain, and on the unlawful acceptance of gifts and gratuities from persons having business with the Commission.

Section 7.17 Use of Commission employment.

This section follows the *Code of Ethics*, Subpart C section 1, and 5 CFR 735.302.

Section 7.18 Use of inside information.

Paragraph 7.18(a) is based on the *Code of Ethics*, Subpart C section 2(a), and on 5 CFR 735.303(a).

Paragraph 7.18(b) brings special Commission employees within the provisions of § 7.9 (d) and (e) as regards teaching, lecturing or writing. It is based

on the *Code of Ethics*, Subpart C section 2(b), and on 5 CFR 735.303(b).

Section 7.19 Coercion.

This section is based on the *Code of Ethics*, Subpart C section 3, and on 5 CFR 735.304.

Section 7.20 Gifts, entertainment, and favors.

This section prohibits special Commission employees from receiving or soliciting anything of value from a person having business with the Commission while the special employee is so employed or in connection with that employment. The exceptions to this general prohibition are the same as those granted Commission employees at Subpart B, section 7.8(b). This section is based on the *Code of Ethics, Subpart C section 4(a), and on 5 CFR 735.305(a).*

Section 7.21 Miscellaneous statutory provisions.

Special Commission employees are required by this section to acquaint themselves with each statute related to their ethical or other conduct as a special employee, with particular emphasis upon the statutory provisions listed at § 7.16. This section is based on the *Code of Ethics*, Subpart C section 5, and on 5 CFR 735.306.

Subpart D—Post Employment Conflict of Interest: Procedures for Administrative Enforcement Proceedings.

This Supbart contains procedures for investigating and administratively correcting post employment conflicts of interest. These procedures are generally the same as those approved by the Commission on February 8, 1980, pursuant to 18 U.S.C. 207(j) and 5 CFR 737.1 (*see* Commission Memorandum #759 dated February 4, 1980), which were found by OGE to conform to the model procedures prescribed by that Office at 5 CFR 737.27

Section 7.22 Scope.

This section states that the procedures set out in this Subpart are to be used in correcting violations of the post employment conflict of interest provisions of 18 U.S.C. 207 (a), (b), and (c). The present language of the section clarifies that former special Commission employees are covered by this provision. The section has also been augmented by language which states that for purposes of Subpart D "former special Commission employee" is to be defined in accordance with 18 U.S.C. 207(c)(1). In addition, the final rule eliminates partners of former employees as persons whose activities are restricted by 18 U.S.C. 207. The provisions of section 207 extend only to the partners of present employees, not to those of former employees or former special employees. *See* 18 U.S.C. 207(g).

Section 7.23 Initiation of Investigation.

Paragraph 7.23(a)(1) provides for the filing of a complaint with the Ethics Officer of the Commission by anyone who believes that a former employee has violated the post employment conflict of interest provisions of 18 U.S.C. 207 (a), (b), or (c), or of 5 CFR 737.

Paragraph 7.23(a)(2) provides for the notification by certified mail of the former employee named in a complaint and for the submission by that former employee of a written legal or factual response within ten days after his or her receipt of the complaint.

Paragraph 7.23(b)(1) places responsibility upon the Ethics Officer for reviewing the complaint and any response by the former employee, and for preparing a report to the Commission in which he or she recommends either that the Commission open an investigation of the allegations in the complaint or that the Commission dismiss the complaint on its face.

Paragraph 7.23(b)(2) asserts the authority of the Commission to order an investigation of allegations made in a complaint by an affirmative vote of four of its members. This paragraph is based in part on 5 CFR 737.27(a)(2)(ii).

Paragraph 7.23(b)(2)(i) requires that any investigation conducted under this section be kept confidential pending a Commission finding of reasonable cause to believe a violation has occurred. The exception to this prohibition pertains to coordination with the Department of Justice following notification as required by § 7.23(b)(2)(ii). This paragraph is based on 5 CFR 737.27(a)(2) (i) and (ii).

Paragraph 7.23(b) (2) (ii) requires that the Commission's Ethics Officer notify the Director of the Office of Government Ethics and the Criminal Division of the Department of Justice that the Commission has ordered an investigation of the allegations made in the complaint pursuant to § 7.23(b)(2), and specifies the information that must be included with the notification. This paragraph is based on 5 CFR 737.27(a)(2)(i).

According to § 7.23(b)(2)(ii) the Commission is to coordinate its investigation or administrative action with the Department of Justice if criminal proceedings are being considered or pursued. This paragraph is based on 5 CFR 737.27(a)(i).

Paragraph 7.23(b)(3) states that there will be no investigation if the Commission finds the complaint to be unfounded. In such an event, the Ethics Officer is required to notify both the complainant and the former employee of the Commission's finding.

Section 7.24 Conduct of preliminary investigation.

Paragraph 7.24(a) establishes the responsiblity of the Ethics Officer to conduct an investigation into the allegations of a complaint once the Commission has found, pursuant to § 7.23(b)(2), that the complaint appears to be substantiated.

Paragraph 7.24(b) establishes the rights of the former employee to be notified of the Commission's decision to initiate an investigation through receipt of a copy of the report submitted by the Ethics Officer Pursuant to § 7.23(b)(1), and to respond to the allegations and to the report. The Commission must receive the former employee's response within 20 days after his or her receipt of the Ethics Officer's report. although an extension of time may be requested of the Ethics Officer in writing. The language of this paragraph differs from that in the Notice of Proposed Rulemaking by the deletion of "the complaint" as one of the documents the receipt of whch triggers a twenty-day response time. Section 7.23(a)(2) already provides a former employee with ten days to submit an initial response after his or her receipt of a copy of the complaint. The twenty days provided at § 724(b) for response to the Ethics Officer's report is in addition to the earlier ten-day response period.

Paragraph 7.24(c) provides for the former employee's representation by counsel.

When the investigation is completed, the Ethics Officer is required by Paragraph 7.24(d) to prepare a report to the Commission which is to include any materials provided by the former employee. The report must recommend a finding of reasonable cause to believe or of no reasonable cause to believe that the former employee has violated 18 U.S.C. 207 (a), (b), or (c).

Section 7.25 Initiation of administrative disciplinary proceedings.

Paragraph 7.25(a) provides for review by the Commission in Executive Session of the Ethics Officer's investigative report prepared pursuant to § 7.24(d).

Paragraph 7.25(b) provides that after the Commission, by an affirmative vote of four of its members, determines that there is reasonable cause to believe a violation has occurred, the Commission must initiate an administrative disciplinary proceeding by notifying the former employee pursuant to section

7.26. This paragraph is based on 5 CFR § 737.27(a)(2).

Should the Commission find no reasonable cause to believe a violation has occurred, Paragraph 7.25(c) requires that the file in the matter be closed and no further action be taken. The Director of the Office of Government Ethics, the Criminal Division of the Department of Justice, the complainant, and the former employee are to be notified of this determination and each is to be provided with a statement of reasons.

Section 7.26 Notice to former employee.

If the Commission finds reasonable cause to believe that a violation has occurred, the Ethics Officer is required by § 7.26(a) to provide the former employee with adequate notice of the Commission's intention to institute a disciplinary proceeding and of the employee's opportunity to request a hearing. This paragraph is based in part on 5 CFR 737.27(a)(3).

Paragraph 7.26(b) outlines the contents of the adequate notice required by § 7.26(a). It is based in part on 5 CFR 737.27(a)(3)(ii).

Paragraph 7.26(c)(1) gives a former employee who is sent a notice pursuant to § 7.26(a) ten days after receipt of that notice to notify the Commission by certified mail of his or her desire for a hearing. It also sets out the information which should be included in such a request for a hearing.

Paragraph 7.26(c)(2) provides that if a written request for a hearing from the former employee is not received within the period of time established by § 7.26(c)(1), the right to a hearing will be waived, and the hearing examiner appointed pursuant to § 7.27 (a) and (b) shall consider the written evidence and make a decision.

Section 7.27 Hearing examiner designation and qualifications.

Paragraph 7.27(a) differs from its counterpart in the Notice of Proposed Rulemaking by the deletion of the first sentence in the latter as redundant. It also modifies the language concerning the designation of a hearing examiner to clarify that, following a Commission determination that there is reasonable cause to believe a violation has occurred pursuant to § 7.25, the Ethics Officer shall designate an individual to serve as hearing examiner whether or not the former employee requests a hearing and whether or not the Commission decides to agree to such a request. If there is no hearing, the examiner will make a determination based upon the written evidence before him or her. If there is a hearing, the examiner also will consider the oral evidence presented. *See* also § 7.26(c)(2). This paragraph is based in part on 5 CFR 737.27(a)(4)(i).

Paragraph 7.27(b)(1) establishes criteria to be applied in selecting a hearing examiner pursuant to § 7.27(a). It is based in part on 5 CFR 737.27(a)(4)(ii) and (iii).

Paragraph 7.27(b)(2) requires that the hearing examiner be an attorney at the Assistant General Counsel level or higher.

Section 7.28 Hearing date.

Paragraph 7.28(a) requires that the hearing examiner set the hearing at a reasonable date, time and place. It is based on 5 CFR 737.27(a)(5)(i).

Paragraph 7.28(b) requires that, whenever possible, the hearing examiner consider the former employee's needs when setting the date, time and place of the hearing. This paragraph is based in part on 5 CFR 737.27(a)(5)(ii).

Section 7.29 Hearing rights of former employees.

This section lists particular rights which are afforded former employees during a hearing conducted pursuant to Subpart D. It is based on 5 CFR 737.27(a)(6).

Section 7.30 Hearing procedures.

This section establishes the rules of procedure to be followed prior to and during an administrative disciplinary hearing held under this Subpart.

Pursuant to Paragraph 7.30(a)(1), the Ethics Officer must provide the former employee, no later than 10 days before the hearing, with a list of witnesses to be introduced by the Commission. This paragraph specifies the information to be included in this list. It also provides that the former employee must be informed if no witnesses are to be called by the Commission.

Paragraph 7.30(a)(2) sets out the responsibilities of the former employee regarding the provision of a list of witnesses he or she intends to introduce. This list must be provided to the Ethics Officer no later than 5 days prior to the hearing. The Ethics Officer is to be notified if no witnesses are to be called.

According to § 7.30(b) the Commission is to be represented at the hearing by the Ethics Officer. This subsection also reiterates the former employee's right of self-representation or to representation by counsel.

Pursuant to Paragraph 7.30(c), the burden of proof is on the Commission to establish substantial evidence of a violation. This paragraph is based on 5 CFR 737.27(a)(7).

Paragraph 7.30(d)(1) specifies the documents which the Commission is required or permitted to introduce and which will be made part of the hearing record.

Paragraph 7.30(d)(2) provides the former employee with the opportunity to submit a brief or memorandum of law to be included in the hearing record.

Paragraphs 7.30(d) (3) and (4) establish the order of the introduction of witnesses and evidence, with the Commission making the initial presentation, and also establish the right of cross-examination for both the Commission and the former employee.

Paragraph 7.30(d)(5) establishes the right to oral argument for both parties, with the Commission making the first presentation. The Commission is also given the right of rebuttal.

Paragraph 7.30(d)(6) requires that decisions as to the admissibility of evidence or testimony be made under the Federal Rules of Evidence.

Section 7.31 Examiner's decision.

Paragraphs 7.31 (a) and (b) require that the examiner make a determination no later than 15 days after the close of the hearing, that the determination be made exclusively on matters of record in the proceeding, and that the determination set forth all findings of fact and conclusions of law relevant to the matter at issue. These paragraphs are taken from 5 CFR 737.27(a)(8)(i).

Paragraph 7.31(c) requires that the examiner provide copies of his or her determination to the complainant, the former employee, the Ethics Officer and the Commission. The complainant has been added as a recipient since publication of the Notice of Proposed Rulemaking for the sake of consistency with § 7.23(b)(3) which provides that the complainant is to receive notification if the Commission decides that a complaint is unfounded and that no investigation is to be conducted, and with § 7.25(c) which provides that the complainant is to receive notification and a statement of reasons if the Commission finds no reasonable cause to believe a violation has occurred.

Section 7.32 Appeal.

This section establishes the rights of the former employee and of the Ethics Officer to appeal a decision of the hearing examiner to the Commission, sets out the procedures to be followed by the appealing party in filing a notice of appeal, and specifies the powers and responsibilities of the Commission in reviewing the examiner's decision and in reaching its own determination.

Paragraph 7.32(a) permits either the former employee or the Ethics Officer to appeal the decision of the hearing examiner to the Commission by filing a notice of appeal with the Chairman within 10 days of receipt of the decision. This paragraph is based on 5 CFR 737.27(a)(8)(ii).

Paragraph 7.32(b) requires that the notice of appeal be accompanied by a memorandum setting forth the legal and factual reasons why the examiner's decision should be reversed or modified.

Under Paragraph 7.32(c) the Commission may affirm, modify or reverse the examiner's decision. This decision is to be based solely on the hearing record or on those parts of the record cited by the parties in order to limit the issues on appeal. This paragraph is based in part on 5 CFR 737.27(a)(8)(ii).

Pursuant to § 7.32(d), if the Commission decides to modify or reverse the examiner's decision, it must specify those findings of fact or conclusions of law which differ from those of the examiner. This paragraph is based in part on 5 CFR 737.27(a)(8)(iii).

Section 7.33 Administrative sanctions.

This section sets out the authority of the Commission to take appropriate disciplinary action in the case of any individual found to have violated 18 U.S.C. 207 (a), (b) or (c), whether after a final administrative hearing or, if no hearing is held, after adequate notice to the former employee involved. Examples of such appropriate actions are given, including general prohibitions against appearing before the Commission for a period not to exceed five years, letters of reprimand, letters of admonishment, or prohibitions against making appearances in particular matters or on behalf of a particular party. This section is based on 5 CFR 737.27(a)(9).

List of Subjects in 11 CFR Part 7

Administrative practice and procedure, Conflicts of interests, Government employees, Political activities (Government employees).

11 CFR is amended by adding new Part 7 as follows:

PART 7—STANDARDS OF CONDUCT

Subpart A—General Provisions

Sec

Subpart B—Conduct and Responsibilities of Employees or Commissioners

Subpart C—Conduct and Responsibilities of Special Commission Employees

Subpart D—Post Employment Conflict of Interest: Procedures for Administrative Enforcement Proceedings

Authority: 5 U.S.C. 7321 *et seq.*; 18 U.S.C. 207.

Subpart A—General Provisions

§ 7.1 Purpose and applicability.

(a) The Federal Election Commission is committed to honest, independent and impartial monitoring and enforcement of federal election law. To ensure public trust in the fairness and integrity of the federal elections process, all employees must observe the highest standards of conduct. This part prescribes standards of ethical conduct for Commissioners, employees and special Government employees of the Federal Election Commission relating to conflicts of interest arising out of outside employment, private business and professional activities, political activities, and financial interests. The avoidance of misconduct and conflicts of interest on the part of Commission employees through informed judgment is indispensable to the maintenance of these prescribed ethical standards. Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law.

(b) This part applies to all persons included within the terms "employee" and "special Commission employees" of the Commission as defined in 11 CFR 7.2, except to the extent otherwise indicated herein, and is consistent with Executive Order 11222 and Part 735 of Title 5, Code of Federal Regulations, relating to employee responsibilities and conduct.

(c) These Standards of Conduct shall be construed in accordance with any applicable laws, regulations and agreements between the Federal Election Commission and a labor organization.

§ 7.2 Definitions.

As used in this part:

(a) "Commission" means the Federal Election Commission, 999 E Street, NW. Washington, DC 20463.

(b) "Commissioner" means a voting member of the Federal Election Commission, in accordance with 2 U.S.C. 437c.

(c) "Conflict of interest" means a situation in which an employee's private interest is inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.

(d) "Designated Agency Ethics Officer" or "Ethics Officer" means the employee designated by the Commission to administer the provisions of the Ethics in Government Act of 1978 (Pub. L. 95–521), as amended, and includes a designee of the Ethics Officer.

(e) "Employee" means an employee of the Federal Election Commission, but does not include a special Commission employee.

(f) "Former employee" means one who was, and is no longer, an employee of the Commission.

(g) "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.

(h) "Outside employment or other outside activity" means any work, service or other activity performed by an employee, but not a Commissioner, other than in the performance of the employee's official duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.

(i) "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.

(j) "Special Commission employee" means an individual who is retained,

designated, appointed or employed by the Federal Election Commission to perform, with or without compensation, temporary duties either on a full-time or intermittent basis, for not to exceed 130 days during any period of 365 consecutive days, as defined at 18 U.S.C. 202.

§ 7.3 Notification to employees and special Commission employees.

(a) The provisions of this part shall be brought to the attention of, and made available to, each employee and special Commission employee by furnishing a copy at the time of final publication. The provisions of this Part shall further be brought to the attention of such employees at least annually thereafter.

(b) The provisions of this part shall be brought to the attention of each new employee and new special Commission employee by furnishing a copy at the time of entrance of duty, and by such other methods of information and education as the Ethics Officer may prescribe.

§ 7.4 Interpretation and advisory service.

A Commissioner or employee seeking advice and guidance on questions of conflict of interest and on other matters covered by this part should consult with the Commission's General Counsel, who serves as Ethics Officer. The Ethics Officer should be consulted prior to the undertaking of any action which might violate this part governing the conduct of Commissioners or employees.

§ 7.5 Reporting suspected violations.

(a) Personnel who have information which causes them to believe that there has been a violation of a statute or policy set forth in this part should promptly report such incident to the Ethics Officer. If a report is made orally, the Ethics Officer shall require a written report from the complainant before proceeding further.

(b) When information available to the Commission indicates a conflict between the interests of an employee or special Commission employee and the performance of his or her Commission duties, the employee or special Commission employee shall be provided an opportunity to explain the conflict or appearance of conflict in writing.

§ 7.6 Disciplinary and other remedial action.

(a) A violation of this part by an employee or special Commission employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) When the Ethics Officer determines that an employee may have or appears to have a conflict of interest, the Ethics Officer, the employee's supervisor, the employee's division head, and the Staff Director or General Counsel may question the employee in the matter and gather other information. The Ethics Officer, the employee's supervisor, the employee's division head, and the Staff Director or General Counsel shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If the Ethics Officer, after consultation with the employee's supervisor, the employee's division head, and the Staff Director or General Counsel, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.

(c) Remedial action pursuant to paragraph (b) of this section may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee of his or her conflicting interest;

(3) Disqualification for a particular action; or

(4) Disciplinary action.

Subpart B—Conduct and Responsibilities of Employees or Commissioners

§ 7.7 Prohibited conduct—General.

A Commissioner or employee shall avoid any action whether or not specifically prohibited by this subpart which might result in, or create the appearance of:

(a) Using public office for unlawful private gain;

(b) Giving favorable or unfavorable treatment to any person or organization due to any partisan, political, or other consideration;

(c) Impeding Government efficiency or economy;

(d) Losing independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 7.8 Gifts, entertainment and favors.

(a) A Commissioner or employee of the Federal Election Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;

(2) Conducts operations or activities that are regulated or examined by the Commission; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the Commissioner or employee's official duty.

(b) Paragraph (a) of this section shall not apply:

(1) Where obvious family or personal relationships govern when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;

(3) To the acceptance of unsolicited advertising or promotional material or other items of nominal intrinsic value such as pens, pencils, note pads, calendars; and

(4) To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.

(c) A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as birthday, holiday, marriage, illness, or retirement.

(d) A Commissioner or employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Section 7342 of Title 5, United States Code.

(e) Neither this section nor 11 CFR 7.7 precludes a Commissioner or employee from receipt of a bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this section does not allow an employee or Commissioner to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts,

entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967 (46 Comp. Gen. 689).

§ 7.9 Outside employment or activities.

(a) A member of the Commission shall not devote a substantial portion of his or her time to any other business, vocation, or employment. Any individual who is engaging substantially in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall appropriately limit such activity no later than 90 days after beginning to serve as such a member.

(b) An employee shall not engage in outside employment that is not compatible with the full discharge of this or her Government employment and not in compliance with any labor-management agreement between the Federal Election Commission and a labor organization. Incompatible outside employment or other activities include but are not limited to:

(1) Outside employment or other activities which would involve the violation of a Federal or State statute, local ordinance, Executive Order, or regulation to which the employee is subject;

(2) Outside employment or other activities which would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved;

(3) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, a conflict of interest;

(4) Outside employment or other activities that might bring discredit upon the Government or Commission;

(5) Outside employment or other activities that establish relationships or property interests that may result in a conflict between the employee's private interests and official duties;

(6) Outside employment or other activities which would involve any contractor or subcontractor connected with any work performed for the Commission or would involve any person or organization in a position to gain advantage in its dealings with the Government through the employee's exercise of his or her official duties;

(7) Outside employment of other activities that may be construed by the public to be the official acts of the Federal Election Commission. In any permissible outside employment, care shall be taken to ensure that names and titles of employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission's activities;

(8) Outside employment or other activities which would involve use by an employee of his or her official duty time; use of official facilities, including office space, machines, or supplies, at any time; or use of the services of other employees during their official duty hours;

(9) Outside employment or other activities which tend to impair the employee's mental or physical capacities to perform Commission duties and responsibilities in an acceptable manner; or

(10) Use of information obtained as a result of Government employment which is not freely available to the general public or would not be made available upon request. However, written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.

(c) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the Government in violation of 18 U.S.C. 209.

(d) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive Order 11222, or this part. However, an employee shall not, either for or without compensation, engage in teaching or writing that is dependent on information obtained as a result of his or her Commission employment, except when that information has been made available to the general public or will be made available on request, or when the Commission gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(e) This section does not preclude an individual from participation in the affairs of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service or civic organization.

(f) An employee of the Office of General Counsel who intends to engage in outside employment shall obtain the approval of the General Counsel/Ethics Officer. All other employees who intend to engage in outside employment shall obtain the approval of the Staff Director prior to review and approval by the Ethics Officer. The request shall include the name of the person, group, or organization for whom the work is to be performed, the nature of the services to be rendered, the proposed hours of work, or approximate dates of employment, and the employee's certification as to whether the outside employment (including teaching, writing or lecturing) will depend in any way on information obtained as a result of the employee's official Government position. The employee will receive notice of approval or disapproval of any written request in accordance with any labor-management agreement between the Commission and a labor organization. A record of the approval shall be placed in each employee's official personnel folder.

§ 7.10 Financial interests.

(a)(1) A Commissioner or employee shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his or her Commission employment.

(2) A Commissioner or employee shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her Commission duties and responsibilities, except in cases where the Commissioner or employee makes full disclosure, and the Commissioner or employee disqualifies himself or herself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding of the Commission in which the financial interest is or appears to be affected. The filing of public financial disclosure reports will constitute full disclosure for all individuals who are required to file such reports pursuant to the Ethics in Government Act. Until such time as the extent, shape and form of confidential financial disclosure reports required of employees by the Ethics in Government Act has been determined, full disclosure by an employee will require that that employee submit a written statement to the Ethics Officer disclosing the particular financial interest which conflicts substantially, or appears to conflict substantially, with the employee's duties and responsibilities.

(3) A Commissioner or employee should disqualify himself or herself from a proceeding in which his or her impartiality might reasonably be questioned where the Commissioner or employee knows that he or she, or his or her spouse, has an interest in the subject matter in controversy or is a party to the proceeding, or any other interest that

could be substantially affected by the outcome of the proceeding.

(b) This section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government provided that the activity is not prohibited by law, Executive Order 11222, or Commission regulations.

§ 7.11 Political and organization activity.

(a) Due to the Federal Election Commission's role in the political process, the following restrictions on political activities are required in addition to those imposed by the Hatch Act (5 U.S.C. 7324 *et seq.*):

(1) No Commissioner or employee should publicly support a candidate, political party, or political committee subject to the jurisdiction of the Commission. No Commissioner or employee should work for a candidate, political party or political committee subject to the jurisdiction of the Commission. Commissioners and employees should be aware that contributing to candidates, political parties, or political committees subject to the jurisdiction of the Commission is likely to result in a conflict of interest.

(2) No Commissioner or employee shall display partisan buttons, badges or other insignia on Commission premises.

(b) Special Government employees are subject to the restrictions contained in this section for the entire 24 hours of any day on which the employee is on active duty status.

(c) Employees on leave, leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted, are subject to the restrictions of this section. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he or she does not return to Federal employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office despite any understanding that he or she will resign his or her position if nominated or elected.

(d) An employee is accountable for political activity by another person acting as his or her agent or under the employee's direction or control if the employee is thus accomplishing what he or she may not lawfully do directly and openly.

§ 7.12 Membership in associations.

Commissioners or employees who are members of nongovernmental associations or organizations shall avoid activities on behalf of those associations or organizations that are incompatible with their official governmental positions.

§ 7.13 Use of Government property.

A Commission or employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. Commissioners and employees have a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to him or her.

§ 7.14 Prohibition against making complaints and investigations public.

(a) Commission employees are warned that they are subject to criminal penalties if they discuss or otherwise make public any matters pertaining to a complaint or investigation under 2 U.S.C. 437g, without the written permission of the person complained against or being investigated. Such communications are prohibited by 2 U.S.C. 437g(a)(12)(A).

(b) 2 U.S.C. 437g(a)(12)(B) provides as follows: "Any member or employee of the Commission or any other person, who violates the provisions of subparagraph (A) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates this subsection shall be fined not more than $5,000."

§ 7.15 Ex parte communications.

In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 2 U.S.C. 437g(A) (1) or (2):

(a) Except to the extent required for the disposition of ex parte matters as required by law (as, for example, during the normal course of an investigation or a conciliation effort), no Commissioner or employee involved in the decisional process shall make or entertain any ex parte communications.

(b) The prohibition of this section shall apply from the time a complaint is filed with the Commission pursuant to 2 U.S.C. 437(a)(1) or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 2 U.S.C. 437g(a)(2), and shall remain in force until the Commission has concluded all action with respect to the enforcement matter in question.

(c) Any written communication prohibited by subsection (a) of this section shall be delivered to the Ethics Officer of the Commission who shall place the communication in the file of the case.

(d) A Commissioner or employee, other than the employee assigned to the case, involved in handling enforcement actions who receives an oral offer or any communication concerning any enforcement action pending before the Commission as described in subsection (a) of this section shall decline to listen to such communication. If unsuccessful in preventing the communication, the Commissioner or employee shall advise the person making the communication that he or she will not consider the communication and shall prepare a statement setting forth the substance and circumstances of the communication within 48 hours of receipt of the communication and shall deliver the statement to the Ethics Officer for placing in the file in the manner set forth in subsection (c) of this section.

§ 7.16 Miscellaneous statutory provisions.

Each employee shall acquaint himself or herself with each statute that relates to his or her ethical and other conduct as an employee of the Commission and of the Government. In particular, the attention of employees is directed to the following statutory provisions:

(a) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(b) The prohibition of 18 U.S.C. 1913 against lobbying with appropriated funds.

(c) The prohibitions of 5 U.S.C. 7311 and 18 U.S.C. 1918 against disloyalty and striking.

(d) The prohibition of 50 U.S.C. 784 against the employment of a member of a Communist organization.

(e) The prohibitions against (1) the disclosure of classified information under 18 U.S.C. 798 and 50 U.S.C. 782 and (2) the disclosure of confidential business information under 18 U.S.C. 1905.

(f) The provisions of 5 U.S.C. 7352 relating to the habitual use of intoxicants to excess.

(g) The prohibition of 31 U.S.C. 638a(c) against the misuse of a Government vehicle.

(h) The prohibition of 18 U.S.C. 1719 against the misuse of the franking privilege.

(i) The prohibition of 18 U.S.C. 1917 against the use of deceit in an examination or personnel action in connection with Government employment.

(j) The prohibition of 18 U.S.C. 1001 against fraud or false statements in a Government matter.

(k) The prohibition of 18 U.S.C. 2071 against mutilating or destroying a public record.

(l) The prohibition of 18 U.S.C. 508 against counterfeiting and forging transportion requests.

(m) The prohibitions against (1) embezzlement of Government money or property under 18 U.S.C. 641; (2) failing to account for public money under 18 U.S.C. 643; and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his or her employment under 18 U.S.C 654.

(n) The prohibition of 18 U.S.C. 285 against unauthorized use of documents relating to claims from or by the Government.

(o) The prohibitions against political activities in Subchapter III of chapter 73 of Title 5, United States Code, and 18 U.S.C 602, 603, 607, and 608.

(p) The prohibition of 18 U.S.C. 219 against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act.

(q) The prohibition of 18 U.S.C. 207 against certain activities of departing and former employees.

(r) The prohibition of 18 U.S.C. 208 against certain acts affecting a personal financial interest.

Subpart C—Conduct and Responsibilities of Special Commission Employees

§ 7.17 Use of Commission employment.

A special Commission employee shall not use his or her Commission employment for a purpose that is, or gives the appearance of being, motivated by a desire for unlawful private gain for himself or herself, or for another person, particularly one with whom the employee has family, business or financial ties.

§ 7.18 Use of inside information.

(a) A special Commission employee shall not use inside information obtained as a result of his or her Commission employment for unlawful private gain for himself or herself, or for another person, either by direct action on the employee's part or by counsel, recommendation, or suggestion to another person, particularly one with whom the employee has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Commission authority which has not become part of the body of public information.

(b) A special Commission employee may teach, lecture, or write in a manner consistent with 11 CFR 7.9(d) and (e).

§ 7.19 Coercion.

A special Commission employee shall not use his or her Commission employment to coerce, or give the appearance of coercing, a person to provide unlawful financial benefit to himself or herself or to another person, particularly one with whom the employee has family, business, or financial ties.

§ 7.20 Gifts, entertainment, and favors.

Except as provided at 11 CFR 7.8(b), a special Commission employee, while so employed or in connection with his or her employment, shall not receive or solicit from a person having business with the Commission anything of value such as a gift, gratuity, loan, entertainment, or favor for himself or herself, or for another person, particularly one with whom the employee has family, business, or financial ties.

§ 7.21 Miscellaneous statutory provisions.

Each special Commission employee shall acquaint himself or herself with each statute that relates to his or her ethical or other conduct as a special Commission employee. Particular attention should be directed to the statutory provisions listed in 11 CFR 7.16.

Subpart D—Post Employment Conflict of Interest: Procedures for Administrative Enforcement Proceedings

§ 7.22 Scope.

The following are procedures to be followed by the Federal Election Commission in investigating and administratively correcting violations of the post employment conflict of interest provisions contained in 18 U.S.C. 207 (a), (b), and (c), which restrict activities of former employees, including former special Commission employees, which might give the appearance of undue benefit based on prior Commission employment and affiliation. Where appropriate for purposes of this subpart, 'former special Commission employee' shall be defined in accordance with 18 U.S.C. 207(c)(1).

§ 7.23 Initiation of investigation.

(a) *Filing of complaint.* (1) Any person who believes a former employee has violated the post employment conflict of interest provisions of 18 U.S.C. 207 (a), (b), or (c), or 5 CFR Part 737 may file a signed complaint with the Ethics Officer.

(2) The Ethics Officer, within five days after receipt of the complaint, shall send a copy of the complaint by certified mail to the former employee named in the complaint. The former employee may, within ten days after receipt of the complaint, submit any written legal or factual materials he or she believes demonstrate that the complaint should be dismissed on its face.

(b) *Review of complaint.* (1) The Ethics Officer will review the complaint and any materials submitted by the former employee, and will prepare a report to the Commission recommending whether the complaint should be investigated or should be dismissed on its face.

(2) If the Commission, by an affirmative vote of four members, finds that the complaint appears to be substantiated, it may order an investigation of the allegations made in the complaint.

(i) Except as may be required to coordinate with the Department of Justice under 11 CFR 7.23(b)(2)(iii) any investigation conducted under this section shall be kept confidential until such time as the Commission has determined whether there is reasonable cause to believe a violation has occurred.

(ii) The Ethics Officer shall notify the Director of the Office of Government Ethics and the Criminal Division of the Department of Justice of the Commission's finding that the complaint has merit. The notification shall contain a copy of the complaint, any materials submitted by the former employee, the Ethics Officer's report, and the certification of the Commission's action.

(iii) The Commission will coordinate any investigation or administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice notifies the Commission that it does not intend to initiate criminal proceedings.

(3) If the Commission finds the complaint to be unfounded, no investigation will be conducted and both the complainant and the former employee will be notified by the Ethics Officer of the Commission's finding.

§ 7.24 Conduct of preliminary investigation.

(a) *Ethics Officer's responsibility.* Upon a finding under 11 CFR 7.23(b)(2) that a complaint appears to be substantiated, the Ethics Officer shall

conduct an investigation into the allegations of the complaint.

(b) *Opportunity to respond.* The former employee will be sent a copy of the Ethics Officer's report and will be given an opportunity to respond in writing and under oath to the allegations made in the complaint and the findings made in the report. The former empoloyee may provide any written legal or factual materials he or she believes demonstrate that no violation has occurred. Such response must be received by the Commission within 20 days after the former employee's receipt of the Ethics Officer's report, unless an extension is authorized in writing by the Ethics Officer.

(c) *Representation by counsel.* The former employee may be represented by counsel during the investigation. Such counsel shall notify the Ethics Officer in writing that he or she is representing the former employee. Thereafter, all communications between the Commission staff and the former employee relating to the investigation shall be made to the former employee's counsel.

(d) *Report to the Commission.* Upon completion of the investigation, the Ethics Officer shall prepare a report to the Commission, including any materials provided by the former employee. The report shall recommend whether there is reasonable cause to believe the respondent has violated 18 U.S.C. 207(a), (b), or (c).

§ 7.25 Initiation of administrative disciplinary proceeding.

(a) *Commission review of report.* The Commission shall review the Ethics Officer's investigative report in Executive Session.

(b) *Reasonable cause to believe finding.* If the Commission, by an affirmative vote of four members, determines there is reasonable cause to believe a violation has occurred, it shall initiate an administrative disciplinary proceeding by providing the former employee with the notice defined in 11 CFR 7.26.

(c) *No reasonable cause to believe finding.* If the Commission determines that there is no reasonable cause to believe a violation has occurred, it will close its file on the matter and take no further action. The Commission shall notify the Director of the Office of Government Ethics, the Criminal Division of the Department of Justice, the complainant, and the former employee of its determination. Included in this notification will be a statement of reasons for the Commission's determination.

§ 7.26 Notice to former employee.

(a) *Notice requirement.* After a reasonable cause to believe finding the Ethics Officer shall provide the former Commission employee with adequate notice of an intention to institute a disciplinary proceeding and an opportunity to request a hearing.

(b) *Contents.* The notice required under this section shall contain:

(1) A statement of the allegations (and the basis thereof);

(2) Notification of the right to request a hearing;

(3) An explanation of the method by which a hearing may be requested as set forth at 11 CFR 7.26(c); and

(4) A copy of the post-employment regulations.

(c) *Request for hearing.* (1) A former employee who has received a notice under this section must notify the Commission with ten days after receipt of such notice by certified mail of his or her desire for a hearing. The request for a hearing should include the following information:

(i) The former employee's daytime telephone number;

(ii) The name, address, and telephone number of the former employee's counsel, if he or she intends to be represented by counsel; and

(iii) At least three dates and times at which the former employee will be available for a hearing.

(2) If a written request from the former employee is not received by the Ethics Officer within the stated time period, the right to a hearing shall be waived and the examiner (*See* 11 CFR 7.27) shall consider the evidence and make a decision.

§ 7.27 Hearing examiner designation and qualifications.

(a) *Designation.* If the Commission decides by an affirmative vote of four of its members to hold a hearing, the Ethics Officer shall designate an individual to serve as examiner at the administrative disciplinary hearing. In the absence of a hearing, the Ethics Officer shall designate an examiner to consider the written evidence and make a decision. (See 11 CFR 7.26(b)(2)). The individual designated as examiner shall have the qualifications set forth in subsection (b) of this section.

(b) *Qualifications.* (1) An examiner shall be impartial. No individual who has participated in any manner in the decision to initiate the proceeding may serve as an examiner in those proceedings. Therefore, the following persons may not be designated as an examiner:

(i) A Commissioner,

(ii) The Ethics Officer, or

(iii) Any Commission employee who has participated in the preliminary investigation of the complaint.

(2) The examiner shall be an attorney at the Assistant General Counsel level or higher.

§ 7.28 Hearing date.

(a) *Setting of date by examiner.* The examiner shall set the hearing at a reasonable time, date, and place.

(b) *Considerations.* Whenever practicable, the examiner shall choose a time and date from the list submitted by the former employee in the request for a hearing. In setting a hearing date, the examiner shall give due regard to the former employee's need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

§ 7.29 Hearing rights of former employer.

A hearing conducted under these procedures shall afford the former employee the following rights:

(a) To represent oneself or to be represented by counsel,

(b) To introduce and examine witnesses and to submit physical evidence,

(c) To confront and cross-examine adverse witnesses,

(d) To present oral argument, and

(e) To request a transcript of the recording of proceedings. The requester will be charged according to the fee schedule set out at 11 CFR 5.6.

§ 7.30 Hearing procedures.

(a) *Witness lists.* (1) No later than 10 days prior to the hearing date, the Ethics Officer will provide the former employee with a list of the witnesses the Commission intends to introduce. The list shall include the name and position of each witness and the aspect of the allegation upon which the witness is expected to testify. If no witnesses are to be called, the former employee shall be so notified.

(2) No later than 5 days prior to the hearing date, the former employee shall provide the Ethics Officer with a list of witnesses he or she intends to introduce. The list shall include the name and position of each witness and the aspect

of the allegation upon which the witness is expected to testify. If no witnesses are to be called, the Ethics Officer shall be so notified.

(3) Copies of the witness lists shall be given to the examiner by the Ethics Officer.

(b) *Representation.* (1) The Commission shall be represented at the hearing by the Ethics Officer or his or her designee.

(2) The former employee may represent himself or herself or may be represented by counsel.

(c) *Burden of proof.* The burden of proof shall be on the Commission which must establish substantial evidence of a violation.

(d) *Conduct of hearing.* (1) The following items will be introduced by the Commission and will be made part of the hearing record:

(i) The complaint;

(ii) The notification sent to the former employee under 11 CFR 7.27;

(iii) The former employee's response to the notification; and

(iv) If the Commission so chooses, a brief or memorandum of law.

(2) The former employee will then be given an opportunity to submit a brief or memorandum of law to be included in the hearing record.

(3) The Commission shall introduce its witnesses and evidence first. At the close of the Commission's examination of each witness, the former employee will be given an opportunity to cross-examine the witness.

(4) The former employee will present his or her witnesses and evidence at the close of the Commission's presentation. At the close of the former employee's examination of each witness, the Commission shall be given an opportunity to cross-examine each witness.

(5) After the former employee has completed his or her presentation, both parties will be given an opportunity for oral argument with the Commission making its arguments first. Time shall be offered during the oral argument for Commission rebuttal.

(6) Decisions as to the admissibility of evidence or testimony shall be made under the Federal Rules of Evidence.

§ 7.31 Examiner's decision.

(a) *Initial determination.* No later than 15 days after the close of the hearing, the examiner shall make a determination exclusively on matters of record in the proceeding.

(b) *Form of determination.* The examiner's determination shall set forth all findings of fact and conclusions of law relevant to the matters at issue.

(c) *Copies.* The examiner shall provide copies of his or her determination to the former employee, the complainant, the Ethics Officer, and the Commission.

§ 7.32 Appeal.

(a) *Right of appeal.* Within ten days after receipt by certified mail of the examiner's decision, either party may appeal such decision to the members of the Commission by filing a notice of appeal with the Chairman.

(b) *Notice of appeal.* The notice of appeal shall be accompanied by a memorandum setting forth the legal and factual reasons why the examiner's decision should be reversed or modified.

(c) *Commission review of appeal.* The Commission, by an affirmative vote of four members, may affirm, modify, or reverse the examiner's decision. The Commission's decision shall be based solely on the hearing record or those portions thereof cited by the parties to limit the issues.

(d) *Commission statement on appeal.* If the Commission modifies or reverses the initial decision, it shall specify such findings of fact or conclusions of law as are different from those of the examiner.

§ 7.33 Administrative sanctions.

The Commission may take appropriate disciplinary action in the case of any individual who is found in violation of 18 U.S.C. 207 (a), (b), or (c) after a final administrative hearing, or in the absence of a hearing, after adequate notice such as by:

(a) Prohibiting the individual from making, on behalf of any person (except the United States), any formal or informal appearance before, or, with the intent to influence, any oral or written communication to the Commission on any matter of business for a period not to exceed five years, which may be accomplished by directing agency employees to refuse to participate in any such appearance or to accept any such communication;

(b) Issuing a letter of reprimand;

(c) Issuing a letter of admonishment;

(d) Prohibiting a former employee from making formal or informal appearances or communications in connection with a particular matter or on behalf of a particular party.

(e) Taking other appropriate disciplinary action.

Dated: September 24, 1986.

Joan D. Aikens,

Chairman.

[FR Doc. 86-21898 Filed 9-26-86; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-187-AD; Amdt. 39-5429]

Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This action adopts a new airworthiness directive (AD), applicable to Aerospatiale Model ATR-42 series airplanes, which requires the installation of a positive stop to limit the maximim flap setting to 30 degrees, and an amendment to the FAA-approved Airplane Flight Manual (AFM). This amendment is prompted by a report of uncommanded pitch excursions at a flap setting of 45 degrees when tailplane icing was present. This condition, if not corrected, could result in temporary or total loss of control of the airplane.

DATES: Effective October 15, 1986. Comments must be received by October 15, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-187-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Générale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on Aerospatiale Model ATR-42 airplanes. When ice is present on the

tailplane, it is possible for uncommanded pitch excursions to occur when flaps are extended to a setting of 45 degrees. Aerospatiale has issued Service Bulletin ATR42–27–0004, dated September 3, 1986, which describes procedures for installation of a positive stop on the flap quadrant to physically limit the maximum flap setting to 30 degrees. This limitation would be required to be used during normal operation of the airplane, except under certain emergency conditions, such as ditching and emergency landings, where the use of flaps 45 degrees may be determined by the flight crew under the circumstances to improve safety. The DGAC has classified the service bulletin as mandatory.

This airplane model is manufactured in France and type certificated in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States the FAA has determined that an airworthiness directive is necessary to require U.S. operators to accomplish the actions described above, in accordance with the Aerospatiale service bulletin previously mentioned.

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

Although this action is in the form of a final rule, which involves an emergency and was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–187–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. All communications will be considered by the Administrator, and the AD may be changed in light of the comments received.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR–42 airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent uncommanded pitch excursions from occurring during flight in icing conditions at a flap setting of 45 degrees, accomplish the following:

A. Within seven days after effective date of this AD, incorporate the following into the Limitations Section of the Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM.

"Flap extension in excess of 30° is not authorized during any normal or abnormal flight conditions. During an emergency landing or ditching, as required by the flight crew, flap 45° may be used."

B. Within 21 days after effective date of AD, apply temporary Scotchcal adhesive labels to the speed limits placard and to the flaps control sector markings, to provide VFE and approach/landing settings consistent with the limitations required in paragraph A., above, in accordance with Aerospatiale (ATR) Service Bulletin ATR42–27–0004, dated September 3, 1986.

C. No later than December 1, 1986, replace previously installed temporary adhesive labels with permanent engraved labels with the same markings, and install a stop on the flaps control in accordance with Aerospatiale (ATR) Service Bulletin ATR42–27–0004, dated September 3, 1986.

Note: The mechanical stop which precludes the normal use of flaps 45° operation may be removed in case of emergency ditching or emergency landing, when, at the discretion of the flight crew, additional safety would be provided by using flaps 45°.

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

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer, may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 15, 1986.

Issued in Seattle, Washington, on September 22, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–21878 Filed 9–26–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–CE–39–AD; Amdt. 39–5428]

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. Type Certificate (TC) A2PC, Models MU–2B, –10, –15, –20, –25, –26, –30, –35, –36 Airplanes and Mitsubishi Aircraft International, Inc. TC A10SW, Models MU–2B, –25, –26, –26A, –35, –36A, –40, and –60 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain serial numbered Mitsubishi Models MU–2B, –10, –15, –20, –25, –26, –26A, –30, –35, –36, –36A, –40, and –60 airplanes manufactured by Mitsubishi Heavy Industries Ltd. (MHI), and Mitsubishi Aircraft International, Inc. (MAI) which supersedes AD 85–04–03, Revision 1, Amendment 39–5328. This superseded AD required the installation of higher heat capacity pitot tubes. Subsequent to the issuance of AD 85–04–03, MHI and MAI issued revisions to their service recommendations to include recommended modifications of

anti-ice/deice electrical systems circuits, and recently provided Beech Aircraft Corporation (Licensee for Mitsubishi) with a detailed analysis of these electrical changes to these service recommendations. FAA review of the data indicates that anti-ice/deice circuits can be overloaded and must be modified. Compliance with previous revisions to the Mitsubishi service recommendations does not nullify the requirement to comply with the later service recommendations changes specified in this AD.

EFFECTIVE DATE: October 6, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESS: A copy of Mitsubishi Heavy Industries (MHI), Ltd., MU–2 Service Recommendation No. 053, Revision A, dated October 23, 1984, or Mitsubishi Aircraft International (MAI), Inc., MU–2 Service Recommendation No. SR 020/34–005, Revision B, dated May 24, 1985, applicable to this AD may be obtained from Beech Aircraft Corporation (Licensee for Mitsubishi), 9709 East Central, P.O. Box 85, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: For MHI TC A2PC Series airplanes manufactued in Japan: Jerry Sullivan, Aerospace Engineer, Western Aircraft Certification Office, ANM–172W, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007; telephone (213) 297–1166. For MAI TC A10SW Series airplanes manufactured in the U.S.: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4419.

SUPPLEMENTARY INFORMATION: AD 85–04–03, applicable to MHI, Ltd., Models MU–2B, –10, –15, –20, –25, –26, –30, –35, and –36 airplanes and MAI, Inc., Models MU–2B, –25, –26, –26A, –35, –36A, –40, and –60 airplanes required modifying the pitot system by installing higher heat capacity pitot tubes. This AD was issued based upon the fact that there had been at least 18 documented instances, during heavy icing or extreme cold conditions, when the airspeed indicator gave erroneous readings or dropped to no indicated airspeed, which was linked to the pitot tube (P/N PH506) icing over and/or accumulated moisture freezing within the mast casting.

MHI and MAI had issued service recommendations that gave operators of MU–2 aircraft the option of changing to an improved pitot head. The improved pitot head (P/N PH1100) utilizes a higher heat on the pitot probe and incorporates a mast heater in the mast casting. The FAA found that the condition addressed by the service recommendations was an unairworthy condition likely to exist on airplanes certificated for operation in the United States and issued AD 85–04–03 which required the installation of the higher heat capacity pitot tubes. Because of the unavailability of these higher heat capacity pitot tubes, the AD was revised permitting a temporary alternate means of compliance by: (a) Prohibiting flight into known icing condition; (b) requiring pitot heat for flight in visible moisture; and (c) making the pitot aware that the pitot and/or copitot airspeed indicators could display erroneous data after any flight in visible moisture, periods of storage in rain without pitot covers, or washing of the airplane without pitot covers.

Subsequent to the issuance of AD 85–04–03, MHI issued Service Recommendation (SR) 053, Revision A, dated October 23, 1984, and MAI issued SR 020/34–005, Revision B, dated May 24, 1985, to include recommended modifications of anti-ice/deice electrical systems circuits. As a basis for reviewing and reevaluating these electrical circuit changes Beech Aircraft Corporation (Licensee for Mitsubishi) was recently provided a detailed analysis of the electrical changes called for in these service recommendations by Mitsubishi.

Service Recommendation (SR) 053, Revision A, and SR 020/34–005, Revision B, require that the electrical power feeder to the overhead panel be increased in guage size from No. 10 to No. 8 and the associated circuit breaker be increased, on certain airplanes, from 35 amperes to 40 amperes. These service recommendations also require the addition of an exclusive circuit breaker for the stall vane heater and the addition of a relay which is controlled by a pitot/stall heat switch on the overhead panel. These recommendations are designed to achieve isolation between the pitot tube heater power line and stall vane heater power line, but do not require replacement of wire in the wing. On certain airplanes, the single power feed to the overhead bus is modified into dual power feed cables to provide proper load distribution. On airplanes where the total load could exceed the 40 amperes, the propeller de-ice system is deleted from the overhead bus and the power is routed directly from the main load bus.

Airplanes which have been modified in accordance with SR 053 (no revision) and SR 020/34–005, Revision A, must comply with the additional modifications specified in SR 053, Revision A, and SR 020/34–005, Revision B, respectively.

More specifically, on Serial Numbers 005 through 189, SR 053, Revision A, replaces the existing 10 ampere circuit breaker with one of 15 ampere capacity and replaces the 18 gauge wire with 16 gauge for the right hand pitot heater. The circuit is modified by adding a 10 ampere circuit breaker dedicated to the stall vane, with the power to the stall vane being controlled by a relay energized by the pitot/stall switch of the right hand pitot/stall circuit. These airplanes have a single (right hand) electrically heated pitot tube powered from the overhead bus.

On Serial Numbers 190 through 238, SR 053, Revision A, provides the same modification as specified for Serial Numbers 008 through 189 except that the left hand pitot circuit breaker is increased to 15 ampere and the wire gauge is increased from 18 to 16. These airplanes have dual (left hand and right hand) electrically heated pitot tubes powered from the overhead bus.

On Serial Numbers 504 through 547, SR 053, Revision A, increases the pitot heater (left hand and right hand) circuit breakers from 10 ampere to 15, and associated 18 gauge wire is increased to 16 gauge wire. A 10 ampere circuit breaker and associated 16 gauge wire are added to the right hand load bus to supply power to the stall vane. Also, a relay is added to this circuit which is energized from the right hand pitot heater switch. A 30 ampere circuit breaker and feeder cable are added to provide for a dual overhead bus. These airplanes presently have a single overhead bus with the stall vane heater controlled by the right hand pitot switch breaker. Also these systems incorporate a single propeller heat timer and are without an oil cooler heater.

Serial number 502 is modified from a single overhead bus into a dual bus configuration with the left hand engine intake heater and left hand pitot heater on the left hand overhead panel; with the right hand engine intake heater, right hand pitot heater, and stall vane heater on the right hand overhead bus; and with the propeller heater supplied through a 35 ampere breaker powered from either the left or right hand bus. This airplane is presently configured with the stall vane heater directly on the overhead bus, with a single propeller heater timer, and without an oil cooler heater.

On Serial Numbers 239 through 347 (except 313 and 321), 501, and 586 through 696 (except 652 and 661), SR 053, Revision A, replaces existing pitot switch breakers with those rated at 15 ampere and the associated wire is increased to 16 gauge from the existing 18 gauge. A 30 ampere circuit is added in order to achieve a dual overhead bus. The existing single overhead bus incorporated a separated stall vane heater, single propeller heater, and does not have an oil cooler heater.

Serial Numbers 313, 349, and 652 are modified by SR 020/34–005, Revision B, by replacing the 35 ampere circuit breaker with a 40 ampere breaker for the right hand overhead bus feeder. Also the associated wire is increased from 10 to 8 gauge. On Serial Numbers 313, 349, and 652 a circuit breaker and 10 gauge wire are added on the left hand load bus and routed to the overhead panel, to provide a separate circuit for the propeller heater timer.

On Serial Numbers 321, 661, and 697 through 713, SR 020/34–005, Revision B, replaces the 35 ampere circuit breaker with a 40 ampere breaker on the left hand load bus, and increases the feeder cable to the left hand overhead bus from 10 to 8 gauge wire. These airplanes presently incorporate a dual overhead bus, dual propeller heater timers, and oil cooler heaters.

Serial Numbers 348, 350 through 408, 714, and 718 through 753, which incorporate a dual overhead bus, dual propeller heater timers and oil cooler heaters, are not modified by SR 020/34–005, Revision B, since Revision A of the SR increased the left hand and right hand pitot heater switch breakers from 10 to 15 ampere and increased the wire gauge from 18 to 16.

The FAA has examined the available information related to the issuance of Mitsubishi Heavy Industries, Ltd., MU–2 Service Recommendation No. 053, Revision A, dated October 23, 1984, and Mitsubishi Aircraft International, Inc., MU–2 Service Recommendation No. SR 020/34–005, Revision B, dated May 24, 1985, and based upon the foregoing, the FAA has determined that the condition addressed by the above service recommendations is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore an AD superseding AD 85–04–03, Revision 1, is being issued which requires, before further flight, the installation of higher heat capacity pitot tubes and the incorporation of the associated electrical system wiring changes as described in MHI SR 053, Revision A, and MAI SR 020/34–005, Revision B on Mitsubishi Heavy Industries, Ltd. Type Certificate (TC) A2PC, Models MU–2B, –10, –15, –20, –25, 26, –30, –35, –36 airplanes and Mitsubishi Aircraft International, Inc. TC A10SW, Models MU–2B, –25, –26, –26A, –35, –36A, –40, and –60 airplanes.

The FAA is aware that certain Mitsubishi MU–2 airplane owner/operators are unable to meet the AD compliance date because of the continued shortage of available high heat producing capability pitot tubes. Since it is not the intention of the FAA to unnecessarily ground airplanes or place an undue burden on the public, the pertinent data has been reviewed and the FAA will continue to permit the alternate temporary method of compliance described in superseded AD 85–04–03, Revision 1, which effectively extends the compliance deadline date for modifying the pitot system with the higher heat producing capability pitot tubes, as specified in SR 053, Revision A, and SR 020/34–005, Revision B, until September 1, 1988. The alternate method is a temporary measure, permissible until September 1, 1988, to permit owner/operators to continue to operate the MU–2 airplane with an equivalent level of safety, by:

(a) Prohibiting flight into known icing conditions; requiring pitot heat for flight in visible moisture; and making the pilot aware that the pitot and/or copilot airspeed indicators may display erroneous data after flight in visible moisture, a period of storage in rain without pitot covers, or washing of the airplane without pitot covers (if an erroneous airspeed indication is observed in either system, prior to the next flight, the discrepant pitot line must be drained and an "OPERATIONAL CHECK OF PITOT LINE" must be performed in accordance with the applicable Mitsubishi MU–2 maintenance manual.),

(b) Modifying, within the next 100 hours time-in-service after the effective date of this amendment, the pitot tube and anti-ice/de-ice electrical systems.

In accordance with MHI SR 053, Revision A, and MAI SR 020/34–005, Revisions B, and (c) Requiring installation of the higher heat capacity pitot tubes as specified in MHI SR 053, Revision A, and MAI SR 020/34–005, Revision B prior to September 1, 1988.

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

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By superseding Amendment 39–5006 as amended by Amendment 39–5328, AD 85–04–03R1 and adding the following new AD:

Mitsubishi: Applies to Models MU–2B, –10, –15, –20, –25, –26, –26A, –30, –35, –36, 36A, –40, and 60 (Serial Numbers 1 through 753 inclusive, with or without the SA suffix) airplanes certificated in any category.

Note.—The serial numbers of airplanes manufactured in the United States by MAI under Type Certificate A10SW are suffixed by "SA". The serial numbers of airplanes manufactured in Japan by MHI under Type Certificate A2PC have no suffix.

Compliance: Required as indicated unless already accomplished.

To assure anti-ice capability of pitot system and proper electric load distribution of anti-ice/de-ice circuits, accomplish the following:

(a) Before next flight after the effective date of this AD:

(1) Modify the following in accordance with Mitsubishi Heavy Industries (MHI) Ltd., Service Recommendation (SR) 053, Revision A, dated October 23, 1984, or Mitsubishi Aircraft International, (MAI) Inc. SR 020/34–005, Revision B, dated May 24, 1985, as applicable:

(i) The electrical circuitry of the pitot tube and anti-ice/de-ice systems and,

(ii) the pitot tube system by installing higher heat capacity pitot tube, P/N PH1100.

(2) As an alternate means of compliance:

(i) Before further flight:

(A) Fabricate and install a temporary placard(s) in full view of the pilot, using letters of minimum 0.10 inch in height which state:

(I) "FLIGHT IN KNOWN ICING CONDITIONS IS PROHIBITED".

(II) "TURN PITOT HEAT *ON* DURING FLIGHT IN VISIBLE MOISTURE".

(III) "Pilot and copilot airspeed indicators may display erroneous data after: (a) Flight in visible moisture; (b) Outside storage in rain without pilot covers; or (c) Washing of airplane. Refer to AFM for corrective action", and

(B) On the "TYPES OF OPERATION" placard located in the cockpit delete, using opaque tape, the words "ICING CONDITIONS", and

(C) Add the following information to the "LIMITATIONS" section of the FAA Approved Airplane Flight Manual (AFM) which supersedes any other AFM information which may be contradictory:

(I) "Flight in known icing conditions is PROHIBITED", and

(II) "TURN PITOT HEAD HEATER *ON* DURING FLIGHT IN VISIBLE MOISTURE", and

(III) "The pilot and copilot airspeed indicator may display erroneous data after any:

(*a*) Flight in visible moisture, or

(*b*) Period of outside storage in rain with no pitot covers installed, or

(*c*) Washing of airplane with no pitot covers installed.

If erroneous airspeed indication(s) has (have) been observed, corrective action is required prior to next flight by draining the affected pitot line(s) and performing the 'OPERATIONAL CHECK OF PITOT LINE' in accordance with the applicable Mitsubishi MU–2 maintenance manual."

(ii) Within the next 100 hours time-in-service after the effective date of this AD, modify the electrical circuitry of the pitot tube and anti-ice/deice systems in accordance with the applicable service information as follows:

A. Mitsubishi Heavy Industries (MHI) Ltd., Service Recommendation (SR) 053, Revision A, dated October 23, 1984, or

B. Mitsubishi Aircraft International (MAI), Inc. SR 020/34–005, Revision B, dated May 24, 1985.

(iii) Replacement of the existing pitot tube(s) with the high heat producing pitot tube(s) in accordance with paragraph (a)(1)(ii) of this AD may be delayed until September 1, 1988, if compliance with paragraph (a)(2)(i) of this AD is accomplished prior to further flight.

(b) Insertion of a copy of this AD in the "LIMITATIONS" section of the AFM satisfies the requirements of paragraph (a)(2)(i)(C) of this AD.

(c) The requirements of paragraphs (a)(2)(i)(A), (a)(2)(i)(B) and (b) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(d) Remove the temporary placard(s) and AFM textual addition required by paragraph (a)(2)(i) of this AD when the requirements of paragraph (a)(1) of this AD are accomplished.

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

(f) An equivalent method of compliance with this AD may be used on the MHI airplanes, if approved by the Manager, Western Aircraft Certification Office, ANM–170W, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009–2007, and on the MAI airplanes, if approved by the Manager, Wichita Aircraft Certification Office, ACE–115W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation (Licensee for Mitsubishi), 9709 East Central, P.O. Box 85, Wichita, Kansas 67201, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment supersedes Amendment 39–5006 (50 FR 8321) as amended by Amendment 39–5328 (51 FR 21515), AD 85–04–03R1.

This amendment becomes effective October 6, 1986.

Issued in Kansas City, Missouri, on September 19, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–21682 Filed 9–26–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–ANE–35; Amendment 39–5425]

Airworthiness Directives; Rolls-Royce (R–R) plc (Formerly Rolls-Royce Limited) RB211–22B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires removal from service of certain intermediate pressure compressor (IPC) stage 6 to 7 rotor assemblies installed on R–R RB211–22B turbofan engines. The AD requires a reduction in the published cyclic life limit and is needed to prevent an uncontained failure of certain IPC stage 6 to 7 rotor assemblies in R–R RB211–22B turbofan engines which have had the IPC stage 7 disk oil drain scallops machined.

DATES: Effective November 4, 1986. Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register on November 4, 1986.

ADDRESSES: The applicable mandatory service bulletin (SB) may be obtained from Rolls-Royce plc, Technical Publications Department, P.O Box 31, Derby DE2 8BJ, England. A copy of the mandatory SB is contained in Rules Docket Number 85–ANE–35, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7084.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include a new AD requiring removal from service of certain IPC stage 6 to 7 rotor assemblies installed on R–R RB211–22B turbofan engines, was published in the Federal Register on February 24, 1986, (51 FR 6416).

The proposal was prompted by the development of cracks in an IPC stage 6 to 7 rotor assembly at the four oil drain scallops on the IPC rotor stage 7 disk during rig testing. The FAA has determined that certain IPC stage 6 to 7 rotor assemblies installed on R–R RB211–22B turbofan engines, having oil drain scallops reworked per R–R SB RB.211–72–5126, may not reach their initial published in-service life of 18,000 cycles intended by the rework. There have been no failures in service to date. Rig testing did not demonstrate the earlier established cyclic life, therefore, certain assemblies that have been reworked per R–R SB RB.211–72–5126 must be removed from service at reduce cyclic lives. Two populations have been identified, those which were reworked between 6,850 and 8,350 cycles in service, and those which were reworked prior to 6,850 cycles in service, identified in Appendices 1 and 2 of R–R SB RB.211–72–6427 Revision 2, respectively.

Since this condition is likely to exist or develop on other engines of the same type design, the AD requires removal from service of IPC stage 6 to 7 rotor

assemblies listed individually by serial number in Appendices 1 and 2 of R–R SB RB.211–72–6427, Revision 2, dated June 30, 1984, at the established new cyclic life limits stated in those same appendices.

Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant data and comments received. Two comments were received.

One commenter conducted an operator survey and stated that all responses received contained no objection to the rule.

The other commenter requested a correction to the paragraph under the caption "SUPPLEMENTARY INFORMATION" starting with "The FAA has determined . . . ", to convey clearly that the new lower cyclic life limits are attainable. The FAA agrees and the paragraph has been reworded accordingly. The same commenter also proposed an alternative paragraph to the paragraph under the caption "THE PROPOSED AMENDMENT" starting with "To prevent disk failures . . .". The proposed paragraph is as follows: "To prevent the possible failure of an IP compressor stage 6 to 7 rotor assembly that has been reworked to SB 72–5126 at a life less than the required minimum, and subsequent uncontained engine failure, the following should be accomplished:" The FAA disagrees with the proposed paragraph because it addresses only the IPC stage 6 to 7 rotor assemblies listed in Appendix 2 of R–R Mandatory SB RB.211–72–6427 Revision 2, and not those of Appendix 1.

Conclusion

The FAA has determined that this regulation involves 40 R–R RB211–22B turbofan engines installed on Lockheed L–1011 series aircraft and the approximate total cost is $72,000. It is also determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using Lockheed L–1011 aircraft in which the RB211–22B turbofan engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by Reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

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

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

2. By adding to § 39.13 the following new airworthiness directive (AD):

Rolls-Royce plc (formerly Rolls-Royce Limited): Applies to Rolls-Royce (R–R) RB211–22B turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent disk failures that can cause uncontained engine failures, accomplish the following:

(a) Remove from service, prior to further flight, all intermediate pressure compressor (IPC) stage 6 to 7 rotor assemblies listed individually by serial numbers in Appendices 1 and 2 of R–R Service Bulletin (SB) RB.211–72–6427, Revision 2, dated June 30, 1984, or FAA approved equivalent, that have accumulated total cycles in service since new, on the effective date of this AD, in excess of the service life specified in those appendices.

(b) Remove from service all IPC stage 6 to 7 rotor assemblies listed individually by serial number in Appendices 1 and 2 of R–R SB RB.211–72–6427, Revision 2, dated June 30, 1984, or FAA approved equivalent, on or before attaining the service life specified in their respective appendix.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

R–R SB RB.211–72–6427, Revision 2, dated June 30, 1984, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Rolls-Royce plc, P.O. Box 31, Derby DE2 8BJ, England. This document also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 85–ANE–35, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on November 4, 1986.

Issued in Burlington, Massachusetts, on September 12, 1986.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 86–21881 Filed 9–26–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–CE–24–AD; Amendment 39–5278]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 82–16–05, Amendment 39–4459, revised by Amendment 39–5278, applicable to Piper Models PA–31, PA–31–325, PA–31–350, and PA–31–350–T1020 airplanes. This correction is necessary because incorrect wording was used in the "ADOPTION OF THE AMENDMENT" paragraph. This action corrects this discrepancy.

EFFECTIVE DATE: October 6, 1986.

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

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 82–16–05, Amendment 39–5278 (51 FR 11707) applicable to Piper Models PA–31, PA–31–325, PA–31–350, and PA–31–350–T1020 airplanes, the FAA found that incorrect wording was used in the "ADOPTION OF THE AMENDMENT" paragraph when the AD was published in the Federal Register. Therefore, action is taken herein to make this correction. Since this action rectifies a clerical error, it imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

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

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

2. By correcting the following AD.

In FR Doc. 86-7543 (51 FR 11707, 11708) appearing on page 11708, column 1, line 19, in the **Federal Register** of April 7, 1986, make the following correction.

Change "proposes to amend § 39.13 of Part 39 of" to read "amends § 39.13 of Part 39 of".

Issued in Kansas City, Missouri, on September 19, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-21879 Filed 9-26-86; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration of Floor Brokers; Extension of Expiration Date

AGENCY: Commodity Futures Trading Commission.

ACTION: Final order.

SUMMARY: The Commodity Futures Trading Commission ("Commission"), by order, is extending indefinitely the expiration date of the registration of certain floor brokers whose registration would otherwise expire on March 31, 1987. The Commission is taking this action in conjunction with the transfer of certain floor broker registration functions to the National Futures Association ("NFA").

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director for Registration, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-9703.

SUPPLEMENTARY INFORMATION: In a separate order published elsewhere today in the **Federal Register**, the Commission is authorizing NFA to perform certain portions of the Commission's registration functions applicable to floor brokers. Specifically, the Commission is authorizing NFA, effective September 29, 1986, to process and, where appropriate, grant applications for registration with the Commission as a floor broker in accordance with the standards established by the Commodity Exchange Act ("Act") and Commission regulations thereunder. In that connection, in a separate notice published elsewhere today in the **Federal Register**, the Commission is amending its regulations governing floor broker registration. Among other things, the Commission is amending rules §§ 3.2 and 3.11, 17 CFR 3.2 and 3.11, to eliminate the current one-year period of registration and provide for the indefinite registration of floor brokers whose registrations have neither been suspended, revoked nor withdrawn and who also continue to hold trading privileges on a Commission designated contract market.

Consistent with the foregoing, the Commission, by the below order, is extending indefinitely the floor broker registration of those individuals currently registered with the Commission, whose registration would otherwise expire on March 31, 1987, provided such registrants have trading privileges on an exchange on that date. The registration of all currently registered floor brokers will remain in effect to and including March 31, 1987, regardless of whether such individuals have trading privileges on an exchange. Subsequent to that date, however, consistent with the final rules adopted today regarding the duration of floor broker registration, the registration of those floor brokers who do not have trading privileges on an exchange will terminate.[1] In connection with the foregoing, the Commission is issuing the following order.[2]

United States of America Before the Commodity Futures Trading Commission.

Order Extending the Expiration Date of Registration of Certain Floor Brokers

Pursuant to section 4f(1) of the Commodity Exchange Act, 7 U.S.C. 6f(1) (1982), the Commission hereby orders that the expiration date of the registration of any floor broker, whose registration would otherwise expire on March 31, 1987, is hereby extended indefinitely, provided such individual has trading privileges on a designated contract market on that date. On or after March 31, 1987, however, if such floor broker has either failed to acquire trading privileges on a designated contract market by March 31, 1987, or if such floor broker ceases to have trading privileges on any designated contract market, the floor broker registration of such individual will terminate by the terms of this order and Commission rule 3.11, as amended, effective September 29, 1986.

Issued in Washington, DC, on September 23, 1986, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 86-21896 Filed 9-26-86; 8:45 am]

BILLING CODE 6351-01-M

[1] In that connection, by letter dated July 24, 1986, the Division of Trading and Markets, in anticipation of final rules in this regard, advised those floor brokers who do not currently have trading privileges, that unless they acquire such privileges on an exchange, their registrations will terminate March 31, 1987.

[2] A copy of this order is being sent to all registered floor brokers.

17 CFR Part 3

Floor Broker Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted amendments to its regulations governing the registration of floor brokers under sections 4e and 4f of the Commodity Exchange Act ("Act"). The amendments would eliminate the current one-year period of registration for floor brokers in favor of indefinite floor broker registration and provide that such registration would expire when the floor broker no longer has trading privileges on an exchange.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director, or Linda Kurjan, Esq., Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-9703 or (202) 254-8955, respectively.

SUPPLEMENTARY INFORMATION: On July 17, 1986, the Commission published for comment in the **Federal Register** proposed amendments to its regulations governing the registration of floor brokers necessary to implement a plan pursuant to which the Commission will authorize the National Futures Association ("NFA") to process and, where appropriate, grant application for registration with the Commission as a floor broker.[1]

Under this plan, the current one-year period of registration would be eliminated. In lieu thereof, the Commission's rules would provide for the indefinite registration of floor brokers, such that registration would

[1] 51 FR 25897. Pursuant to section 8a(10) of the Act, the Commission may—authorize any person to perform any portion of the registration functions under the Act, in accordance with rules, notwithstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.

terminate only when a floor broker no longer has trading privileges on any exchange.[2] A special registration procedure similar to that provided for associated persons who transfer from one firm to another also would be provided for a floor broker who ceases to have trading privileges on one exchange and within sixty days thereafter obtains privileges on another exchange.[3]

In this regard, the Commission proposed to amend Commission rule 3.2 to delete therefrom the provision that the registration of each floor broker shall expire on March 31.[4] In addition, Commission rule 3.11 was proposed to be amended essentially to parallel rule 3.12 and other rules relating to the registration of associated persons. [5] Finally, rule 3.31 was proposed to be amended to require each exchange that has granted trading privileges to a floor broker to file a Form 8–T or similar form with NFA whenever a floor broker no longer has trading privileges on the exchange within twenty days of the cessation of such privileges. Proposed § 3.31(d).

The Commission received two comments on its proposed amendments, one from NFA and one from a law firm representing the Chicago Board Options Exchange ("CBOE"). Upon careful consideration of these comments and its own review of the proposed amendments, the Commission has determined to adopt the amendments essentially as proposed. By separate release elsewhere in this **Federal Register**, the Commission is issuing an Order, pursuant to section 8a(10) of the Act, authorizing NFA, effective September 29, 1986, to process and, where appropriate, grant applications for registration with the Commission as a floor broker.[6]

In its comment, NFA addressed the proposed amendment to Commission rule 3.31 that would require a contract market that has granted trading privileges to a person who is registered or has applied for registration as a floor broker to file a Form 8–T with NFA whenever that person no longer has trading privileges on that exchange. In its further discussions with the exchanges, NFA has determined the filing of a Form 8–T is not necessary, since an exchange will be able to notify NFA when an applicant or registrant ceases to have trading privilege on the exchange through a communications link that will exist between NFA and each exchange. Therefore, NFA requested that the Commission delete the reference in the rule to the Form 8–T.

The Commission's purpose in proposing rule 3.31(d) is to ensure that the registration file of a floor broker applicant or registrant with respect to that individual's registration status remains accurate. The Commission has no objection if NFA has concluded that it can accomplish this purpose through means other than a Form 8–T. Therefore, the Commission has revised rule 3.31(d) accordingly. In this connection, however, the Commission has advised NFA that, in addition to maintaining this information in its computer records, adequate documentation must be prepared and placed in the hard copy file of the floor broker applicant or registrant.

Counsel on behalf of the CBOE did not object to the amendments as proposed. Rather, it was suggested that even further efficiencies may be achieved "by recognizing the current registration status of the numerous securities exchange members who are registered as broker-dealers with the Securities and Exchange Commission" and that automatic floor broker registration be granted to such individuals that are members in good standing of a contract market and a national securities exchange. If the Commission should determine that such automatic registration is not appropriate, however, counsel further urged the Commission to consider a temporary licensing procedure for such individuals.

With respect to automatic registration of individual broker-dealers, the Commission notes that it currently receives more information from a Federal Bureau of Investigation fingerprint examination than does the Securities and Exchange Commission ("SEC"). As a result, the Commission has not accepted an SEC background investigation as a substitute for a Commission investigation. Therefore, automatic floor broker registration of individual registered broker-dealers would not be appropriate.

Further, in its discussions with NFA regarding the transfer of floor broker registration, Commission staff had suggested that it could recommend temporary licenses for floor brokers, if each exchange were prepared to conduct a preliminary background investigation comparable to that performed by sponsors of applicants for registration as an associated person and to certify that such investigation has been conducted. Following separate discussions between NFA and the several exchanges, NFA concluded that it would not request from the Commission authority to issue temporary licenses. Until NFA requests such authority, the Commission does not believe it necessary to adopt amendments to its own rules for this purpose.

Related Matters

A. Regulatory Flexibility Act

The Commission has previously stated that, with respect to floor brokers, determinations regarding the applicability of the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et. seq.*, should be made in the context of rule proposals specifically affecting them.[7] In this connection, these regulations impose no additional requirements for doing business as a floor broker, since this class of commodity participant is already required to be registered with the Commission. In fact, they would ease the regulatory burden by eliminating the annual renewal requirement for registration. Further, the Commission has previously determined that contract markets are not "small entities" within the RFA and, accordingly, the requirements of the RFA do not apply to those entitites.[8] Accordingly, pursuant

[2] Under current rule 3.11, a floor broker could remain registered as such until the thirty-first day of March following the date on which registration was granted even if the floor broker no longer has trading privileges on an exchange.

[3] *See, e.g.*, Commission rule 3.12(d).

[4] The Commission also proposed to delete therefrom the provision that the registration of futures commission merchants shall expire on March 31. The Commission has previously authorized NFA to distribute the dates for registration of futures commission merchants and other registrants for which NFA performs the Commission's registration functions. 48 FR 51809 (November 14, 1983). This provision, therefore, is superfluous.

[5] In this connection, the Commission reiterates that there is no intent to prohibit a floor broker from being a floor broker on more than one exchange. Nor would a floor broker be required to be registered separately with respect to each exchange on which he has trading privileges. As at the present time, the floor broker would add (or delete) any additional exchanges on which he later obtains (or ceases to have) trading privileges by filing the appropriate form.

[6] Pursuant to Commission Order issued October 30, 1985, 50 FR 45101, all floor broker registrations granted on or after January 1, 1985, will remain in effect through March 31, 1987. By separate release in this **Federal Register**, the Commission is also issuing an Order extending the floor broker registration of any person who currently has trading privileges on any exchange indefinitely for so long as such privileges remain in effect. For those registered floor brokers who do not have trading privileges on March 31, 1987, such registrations would expire on that date.

[7] 47 FR 18618, 18620 (April 30, 1982).

[8] *See* 47 FR 18618.

to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (Act), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget.

Copies of the information collection package associated with this rule may be obtained from Katie Lewin, Office of Management and Budget, Room 3235, NECB, Washington, DC 20503, (202) 395-7231.

C. Effective Date

Section 4(c) of the Administrative Procedure Act, 5 U.S.C. 553(d), provides that rules promulgated by an agency may not be made effective less than thirty days afer publication in the Federal Register except, *inter alia*, "a substantive rule which grants or recognizes an exemption or relieves a restriction." In proposing these amendments, the Commission stated that, because they essentially relieved a restriction, the Commission may determine that the amendments may take effect on less than thirty days notice. In this connection, NFA has advised the Commission that it is prepared to assume responsibility for processing floor broker registration applications on September 29, 1986. Therefore, the Commission, pursuant to 5 U.S.C. 553(d), has determined that these rule amendments shall take effect on that date.

List of Subjects in 17 CFR Part 3

Registration requirements, Conditional registration, Temporary licenses, Statutory disqualifications, Authority delegations, Fingerprinting, Associated persons, Floor brokers, Introducing brokers, Commodity trading advisors, Commodity pool operators, Futures commission merchants, Leverage transaction merchants, Petitions for review.

PART 3—REGISTRATION

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

Authority: Secs. 2(a)(1), 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 4p, 5, 8, 8a, 14, 15, 17 and 19 of the Commodity Exchange Act, 7 U.S.C. 2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19, 21 and 23 (1982).

2. Section 3.2 is amended by revising paragraph (d) to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.

* * * * *

(d) The registration of each leverage transaction merchant shall expire on the thirty-first day of March following the date on which registration was granted.

* * * * *

3. Section 3.11 is revised to read as follows:

§ 3.11 Registration of floor brokers.

(a) *Application for registration.* (1) Application for registration as a floor broker must be on Form 8-R, completed and filed with the National Futures Association in accordance with the instructions thereto. Each Form 8-R filed in accordance with this paragraph (a) must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association, except that a fingerprint card need not be filed by any applicant who has a current Form 8-R on file with the Commission or the National Futures Associations.

(2) An applicant for registration as a floor broker will not be registered as such unless the applicant has been granted trading privileges by a board of trade designated as a contract market by the Commission.

(3) When the Commission or the National Futures Association determines than an applicant for registration as a floor broker is not disqualified from such registration, the National Futures Association will provide notification in writing to the applicant and to any contract market that has granted the applicant trading privileges that the applicant's registration as a floor broker is granted.

(b) *Duration of registration.* A person registered as a floor broker in accordance with paragraph (a) or (c) of this section, and whose registration has neither been suspended, revoked nor withdrawn, will continue to be so registered so long as such person has trading privileges on a contract market.

(c) *Special registration for certain persons.* Any person whose registration as a floor broker has terminated within the proceeding sixty days and who is granted trading privileges by another contract market will be registered as, and in the capacity of, a floor broker upon mailing to the National Futures Association of a Form 8-R completed and filed in accordance with the instructions thereto, accompanied by the fingerprints of the floor broker on a fingerprint card provided by the National Futures Association for that purpose.

4. Section 3.31 is amended by adding a new paragraph (d) to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes to be reported.

* * * * *

(d) Each contract market that has granted trading privileges to a person who is registered, or has applied for registration, as a floor broker must notify the National Futures Association within twenty days after such person has ceased having trading privileges on such contract market.

Issued in Washington, DC, on September 23, 1986, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 86-21897 Filed 9-26-86; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231 and 261

[Release Nos. 33-6661; 39-2038]

Securities Issued or Guaranteed by United States Branches or Agencies of Foreign Banks; Interpretive Release

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation of section 3(a)(2) of the Securities Act of 1933.

SUMMARY: The Commission is issuing an interpretive release regarding the application of the registration provisions of the Securities Act of 1933 to the offer and sale of securities by United States branches and agencies of foreign banks.

EFFECTIVE DATE: September 23, 1986.

FOR FURTHER INFORMATION CONTACT: William E. Morley or William H. Carter, Division of Corporation Finance, Securities and Exchange Commission, Washington, DC 20549, (202) 272-2573.

SUPPLEMENTARY INFORMATION: For more than twenty years the Division of Corporation Finance (the "Division") and, in two particular instances, the Commission, have addressed the applicability of the section 3(a)(2) exemption under the Securities Act of 1933 (the "Securities Act") to the issuance and/or guarantee of securities by United States branches or agencies of foreign banks. There has been an increasing number of requests for staff

no-action letters with respect to an expanding array of instruments issued by such branches and agencies.

Section 3(a)(2) exempts from the application of the registration provisions of the Securities Act "any security issued or guaranteed by any bank" and defines "bank" to mean "any national bank, or any banking institution organized under the law of any State, Territory, or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or territorial banking Commission or similar officials." Branches and agencies of foreign banks are operational arms of foreign banks conducting business in the United States under licenses granted either by the Comptroller of the Currency or a State authority. However, such agencies and branches are not separate legal entities from the foreign bank and technically may not be national banks or be organized under the laws of any State. Therefore, they may not fall literally within the definition of a "bank" under section 3(a)(2).

In 1964, the Commission reviewed the availability of the section 3(a)(2) exemption for United States branches of foreign banks, particularly with respect to their day-to-day normal banking operations. After review of the issues involved, particularly the comparability of regulation of these branches, the Commission was satisfied that the foreign bank branches in question were subject to the type and extent of supervision contemplated by section 3(a)(2) for domestic banks and authorized the Division to issued no-action letters with respect to the sale without registration of various instruments. The Division then granted the first no-action letter with respect to certificates of deposit and pass book accounts issued by a New York State branch. Other letters involving state-licensed branches and agencies followed.[1]

In 1974, the no-action policy was reexamined. The Commission reaffirmed the previous position, in part as a policy decision intended to implement the "principle of national treatment," that foreign and domestic banks should have the same privileges and be subject to the same rules in this country. In addition, the Commission determined that the branches and agencies in question appeared to be virtually indistinguishable from their domestic counterparts.

[1] *See* examples of no-action letters cited in footnote 4, *infra*.

In 1978, Congress passed the International Banking Act ("IBA").[2] Prior to the IBA, the only branches and agencies of foreign banks in the United States were those licensed by the States. Under the IBA a foreign bank can establish a "Federal" branch or agency licensed and supervised by the Comptroller of the Currency. Congress enacted the IBA to establish "the principle of parity of treatment between foreign and domestic banks in like circumstances" (the principle of national treatment).[3]

To date more than 100 no-action letters have been issued with regard to a wide variety of securities issued and/or guaranteed by foreign bank branches or agencies, including certificates of deposit, unsubordinated notes, and letters of credit (as well as the underlying securities to which the letters of credit relate).[4] In each of the no-action letters since 1984, the Division's favorable response has been conditioned upon the receipt of an opinion of counsel that the nature and extent of Federal and State regulation and supervision of the branch or agency in question were substantially equivalent to that applicable to Federal or State chartered domestic banks doing business in the same jurisdiction.

The unifying principle underlying these repeated no-action positions by the Division is that, where they are subject to domestic regulation by federal or state banking authorities that is substantially equivalent to that applied to domestic banks, such branches and agencies are functionally indistinguishable from their domestic counterparts.

In view of the increasing number of requests for guidance on this issue and the wide variety of instruments involved, and to assure clear and consistent application of the Act, the Commission believes it appropriate to formalize its position on the application of the section 3(a)(2) exemption from the registration requirements of the Securities Act to securities issued or guaranteed by branches and agencies of foreign banks located in this country. The Commission's interpretation, which underlies the more than 20 years of no-action positions taken by the Division of Corporation Finance, is that, for purposes of the exemption from registration provided by section 3(a)(2) of the Securities Act,[5] the Commission deems a branch or agency of a foreign bank located in the United States to be a "national bank," or a "banking institution organized under the laws of any State, Territory or the District of Columbia," provided that the nature and extent of Federal and/or State regulation and supervision of the particular branch or agency is substantially equivalent to that applicable to Federal or State chartered domestic banks doing business in the same juridiction.[6] The determination

[2] 12 U.S.C. 3101 *et seq*.

[3] S. Rep. No. 1073, 95th Cong., 2d Sess. 2 (1978).

[4] The following are some examples of the types of securities covered by no-action letters issued to date; the letters are listed in chronological order to show how these requests have evolved, with the year a representative no-action letter was granted shown parenthetically:

(a) First no-action letter, certificates of deposit and passbook accounts (1964);

(b) Certificates of deposit, $100,000 minimum denominations, sold only to institutions, "varying" maturities (1971);

(c) Letters of credit guaranteeing short-term notes themselves exempt from registration under section 3(a)(3) (1973);

(d) Notes, unspecified denominations, maturities up to 360 days (1973);

(e) Certificates of deposit, $100,000 minimum denominations, 360 day maturities (1975);

(f) Certificates of deposit, $100,000 minimum denominations, five year maturities (1975);

(g) Certificates of deposit, seven year maturities (1978);

(h) Certificates of deposit, minimum denominations of $25,000 (1978);

(i) Letters of credit guaranteeing notes of branch's commercial and industrial customers (1979);

(j) Letters of credit guaranteeing one year promissory notes (1980);

(k) Letters of credit guaranteeing industrial development bonds (1980);

(l) Notes, maturities up to two years, $100,000 minimum denominations (1983);

(m) Irrevocable guarantees by branch of parent foreign bank's certificates of deposit (1984);

(n) Letters of credit guaranteeing certificates of deposit issued by parent foreign bank (1984);

(o) Letters of credit guaranteeing non-exempt bonds where the term of the bonds exceeded the term of the original letter of credit (with the proviso that if the orignal letter of credit was not replaced with a substantially equivalent letter the issuer was obligated to redeem the bonds with the original letter guaranteeing the redemption) (1985);

(p) Letters of credit guaranteeing participation certificates evidencing fractional undivided interests in a trust composed of industrial development bonds, housing bonds, and mortgages (1985); and

(q) Letters of credit guaranteeing non-exempt notes with maturities of 20 to 30 years (1985).

[5] The exemption provided by section 304(a)(4)(A) of the Trust Indenture Act of 1939 is also available to branches and agencies of foreign banks under the same circumstances.

However, this interpretation does not affect in any way the status of foreign banks (or U.S. branches, agencies or subsidiaries of foreign banks) under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq*]. *See, e.g.*, Investment Company Act Release No. 15314 (September 17, 1986), proposing an exemption from the Investment Company Act of 1940 for the offer or sale of debt securities and non-voting preferred stock by foreign banks or foreign bank finance subsidiaries.

[6] The passage of legislation adopting the recommendation of the Task Group on Regulation of Financial Services, chaired by Vice President

Continued

with respect to the requirement of "substantially equivalent regulation," as well as the determination as to whether the business of the branch or agency in question "is substantially confined to banking and is supervised by the State or territorial banking commission or similar official" is the responsibility of issuers and their counsel. Of course, these determinations will have to be made with regard to the banking regulations in effect at the time the securities are issued or guaranteed.

In light of the issuance of this interpretive release, no-action letters regarding securities issued or guaranteed by foreign bank branches and agencies will no longer be granted.[7]

List of Subjects in 17 CFR Parts 231 and 261

Reporting and recordkeeping requirements, Securities, Registration Requirements, Banks.

PARTS 231 AND 261—[AMENDED]

Parts 231 and 261 of Title 17 of the Code of Federal Regulations are amended by adding this Interpretive Release [Release Nos. 33–6661 and 39–2038] to the lists of Interpretive Releases.

By the Commission.

Jonathan G. Katz,
Secretary.

Dated: September 23, 1986.

[FR Doc. 86–21942 Filed 9–26–86; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Exclusion of Underpayments from Resources

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations reflect the provisions of section 2614 of Pub. L. 98–369, the Deficit Reduction Act of 1984, which amended section 1613(a) of the Social Security Act (the Act). Section 2614 provides for excluding title XVI and title II retroactive payments from resources for 6 months following the month of receipt. A written notice of the 6-month exclusion limitation must be sent to the recipient at the same time as the retroactive payment. These final regulations also include two technical changes that are not related to the statutory exclusion.

EFFECTIVE DATES: These regulations are effective October 1, 1986, but the statutory change which these regulations reflect was effective October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7463.

SUPPLEMENTARY INFORMATION: We published a Notice of Proposed Rulemaking (NPRM) which reflected the provisions of section 2416 of Pub. L. 98–369 on August 28, 1985 (50 FR 34862) and provided a 60-day comment period. The comments are discussed below.

Section 1613(a) of the Act specifies a list of exclusions to be used in determining the resources of an individual (and eligible spouse, if any). The existing regulations are silent concerning the exclusion of retroactive payments. Operating instructions interpreting the Act provided that, prior to October 1, 1984, the effective date of section 2614 of Pub. L. 98–369, retroactive Supplemental Security Income (SSI) payments were not counted as resources for 3 months following the month of receipt. Retroactive title II payments resulting from the Secretary's April 13, 1984, decision to suspend the continuing disability review process were not counted as resources for 3 months following the month of receipt.

Section 2614 of Pub. L. 98–369 adds a resource exclusion to section 1613(a) of the Act. Effective October 1, 1984, the amount of any title XVI or title II underpayment due for one or more prior months is excluded from resources for 6 months following the month of receipt. (It is our practice to use the term "retroactive payment" for the types of underpayments addressed by this amendment. Under our current regulations at 20 CFR 416.536, and for purposes of this exclusion, "underpayments" include federally administered State supplementary payments.) The exclusion applies to retroactive payments received by an individual (and spouse, if any) and by any other person whose resources are subject to deeming. A written notice of the 6-month exclusion limitation will be given to the recipient when the payment is made.

The 6-month exclusion applies only to the unspent portion of funds from a title II or title XVI retroactive payment. The exclusion gives recipients time to use the funds from past benefits due to pay bills which may have accumulated because the recipient had no means with which to discharge his or her financial obligations. Once the money from a retroactive payment is spent, the exclusion does not apply to items purchased with the money unless those items are otherwise excluded, even if the 6-month period has not yet expired. However, any unspent portion of funds from a retroactive payment is excluded for the full 6-month period.

To be consistent with the treatment of other excluded funds, we are requiring that money from a retroactive payment be kept identifiable from other resources. If retroactive-payment funds cannot be distinguished from other resources, they will be counted toward the nonexcludable resources limit as described in § 416.1205.

These regulations add 20 CFR 416.1233 to reflect the new exclusion from resources. In addition, we have added a reference to 20 CFR 416.1233 to the list of resource exclusions found in 20 CFR 416.1210.

While there are no substantive changes, we have modified the format of 20 CFR 416.1233 from the version that was published in the NPRM by adding subparagraphs to clarify some aspects of the provision. These modifications include an explanation, in response to comments, that retroative-payment funds may be "identifiable" even if commingled with other funds; a specification that the exclusion applies ony to the unspent portion of retroactive-payment funds; and a fuller description of the retroactve payments.

These final regulations also include two technical changes that are not related to the statutory exclusion of certain underpayments from resources. We are revising 20 CFR 416.211(c)(5)(iii) to correct a statement that was the result of the recodification several years ago. The language of this particular paragraph was unintentionally changed to the second person. We are changing the language to the original third person for clarification. We are also making a

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George Bush, to narrow the section 3(a)(2) exemption would narrow the effective scope of this interpretive release. The Commission Continues to urge the adoption of this Task Group recommendation. Nonetheless, the Commission believes that comparably regulated foreign bank agencies and branches and domestic banks should be given parity of treatment within whatever regulatory framework exists at any particular time.

[7] Moreover, the Division will not act on any pending no-action requests with respect to the registration under the Securities Act of instruments issued or guaranteed by branches or agencies of foreign banks whether based on section 3(a)(2), the definition of a security, or otherwise.

clarifying revision to 20 CFR 416.1144 by cross-referring that section to 20 CFR 416.1101. We are doing this to clear up an apparent ambiguity with respect to the definition in 20 CFR 416.1144 of "nonprofit retirement home or similar institution." It is our policy of long standing that a "nonprofit retirement home or similar institution" referred to in 20 CFR 416.1144 must meet the general definition of an "institution" as defined in 20 CFR 416.1101. 20 CFR 416.1101 provides that the definition applies for purposes of the entire Subpart K, but some question nevertheless has been raised as to the applicability to 20 CFR 416.1144. Therefore, in order to eliminate any possible ambiguity as to what a nonprofit retirement home or similar institution is, we are adding the cross-reference.

Comments Received Following Publication of the Notice of Proposed Rulemaking on Exclusion of Underpayments From Resources (Published August 28, 1985 (50 FR 34862))

We received a total of 11 comments from 6 different sources: 5 State departments dealing with health and human services and 1 bi-county health and welfare coalition. In general, the commenters expressed approval of the exclusion. However, they had some concerns about its implementaton.

Comment: One commenter stated that the proposed regulation would allow a retroactive underpayment for title XVI or title II benefits to be excluded as a countable resource for 6 months after the month of receipt. While this is fine for an individual living in the community it is not reasonable for institutional situations. A State Medicaid program would have paid for the individual's care for the retroactive period and then be denied the ability seek restitution for overpayments made on behalf of the individual. In addition, the State would be responsible for continuing to provide Medicaid benefits for up to 6 months during which the individual's resources exceeded the appropriate limit.

Response: We have reviewed the legislative background of the existing law (which excludes retroactive under payments from countable resources for 6 months after the month of receipt). The proposed regulation was intended to inform the public of existing law, as set out in section 2614 of Pub. L. 98–369. We can find no evidence that the Congess intended to differentiate between individuals living in the community and those in nursing homes. (In fact, the House bill provided for such exclusion for 12 months, but the conference agreement limited it to 6 months.) The situation the commenter notes arises because the title II benefits were not received when they were due and therefore could not be counted as income in determining an individual's Medicaid eligibility or as income for purposes of post-eligibility reduction of payments on behalf of institutionalized individuals. Under SSI income policies, which apply under Medicaid as specified below, income is considered in determining eligibility (as well as in the Medicaid post-eligibility process) no earlier than in the month in which it become available. As such there was no "overpayment" under Medicaid. It is, from a Medicaid standpoint, important that this regulation excludes underpayments from resources for 6 months after the month of receipt. Any title II underpayment does represent income in the month of receipt. Receipt of such income may affect whether an individual (institutionalized or otherwise) maintains Medicaid eligibility for the budget period and will affect the Medicaid post-eligibility reduction of payments on behalf of institutionalized individuals in the month of receipt. States which grant Medicaid eligibility to all SSI recipients (42 CFR 435.120) must apply the SSI rules to determine eligibility of the their Medicaid-only aged, blind, and disabled population including the policy as set forth in this regulation. States which elect to offer Medicaid eligibility to aged, blind, and disabled individuals under section 1902(f) of the Act (42 CFR 435.121) may employ a more restrictive policy provided that policy is no more restrictive than the policy in effect under the State's January 1, 1972 Medicaid State plan. Any more restrictive provision must be included under the State's title XIX plan.

Comment: The NPRM stated that the exclusion would apply only to the extent that the retroactive-payment funds were kept "identifiable" from other resources. Four commenters objected to what they understood as a requirement to keep the retroactive-payment funds in separate accounts. Based on that misunderstanding, they variously protested the cost and inconvenience to individuals as well as the potential for losing the exclusion and, thereby, losing eligibility under the Medicaid program as well as under title XVI. One of those four, recognizing that it might be difficult to identify the excluded amount if the funds were not kept in separate accounts, suggested that, during the exclusion period, we simply deduct the retroactive-payment amount from any account balance involved.

Response: For title XVI purposes, the term "identifiable" does not mean that funds must be kept in separate accounts. If retroactive-payment funds can be identified through use of personal or bank records, for example, they may be commingled with other resources and continue to benefit from the 6-month exclusion. This is clear in our operating instructions and, as a result of these comments, we have also clarified the point in the regulation.

The policy that excluded resources must be identifiable, though not necessarily kept in separate accounts, is not new with this particular exclusion. Thus far we have not experienced any great administrative difficulty in identifying excluded funds using this rule. Operationally, we assume that any expenditure of commingled funds is made first from nonexcluded funds, regardless of what the expenditure is for. In fact, if an individual's resources even without benefit of excluding certain commingled funds, do not exceed the limit, there is no need to "identify" the excluded amounts. Consequently, it is not unusual for us to determine that someone is eligible without having to identify such funds at all. However, to do as is suggested and exclude a flat amount from an individual's commingled account, would in our view exceed the authority of the statutory provision, since it authorizes an exclusion only for the title II or title XVI underpayment.

Comment: Two commenters stressed the importance of very careful wording of the written notices so that recipients would understand the exclusion and its limitation to 6 months and to title II/title XVI retroactive payments only.

Response: We agree with the commenter about the importance of careful wording of the notices on this issue and have made a concerted effort to provide this. Since the statutory provision took effect on October 1, 1984, recipients have been receiving the required written notices about this exclusion. In addition, a separate notice has been created for use is title XVI cases involving interim assistance reimbursement (IAR) to States. These notices were developed in conjunction with agency-wide efforts to improve written communication with recipients, and they appear to have been understood.

Comment: One commenter suggested that an individual's receiving the notice of the 6-month exclusion before receiving the retroactive payment itself might help to avoid losing the benefit of the exclusion.

Response: As we have indicated previously, the recipient of a retroactive payment does not lose the benefit of the exclusion simply because he or she combined those funds with other funds which are not excluded. Whether the retroactive payment involved is made under title II or title XVI, the exclusion notice is generated as part of the title XVI notice and states when the payment was sent and when the exclusion will expire. Although it is not feasible for the notice to accompany the actual payment, it arrives within 2 weeks of the payment. Because we are able to identify excluded funds commingled with other funds as in a bank account (the most common form of commingling) there is almost no likelihood that the retroactive payment funds will not be identifiable upon receipt of the notice and subsequently.

Comment: One commenter felt that the exclusion period should be limited to 3, rather than 6, months but that it should apply to any retroactive payments an individual might receive.

Response: The 6-month exclusion period and its limitation to title II/title XVI retroactive payments are specified by statute and are not subject to regulatory change.

Comment: One commenter pointed out the need for a procedure to minimize confusion when a title XVI retroactive payment is sent to a State welfare agency under the terms of an IAR agreement. This occurs when there is an IAR agreement with the State and the individual has agreed in writing to have the State reimbursed out of the first SSI check. Once the State has deducted its reimbursement for the interim assistance it provided, the balance is forwarded to the individual.

Response: Although the same basic policy applies to IAR situations as to situations where the first SSI check goes directly to the individual, the commenter is correct that procedures are needed to deal with IAR situations. Such operating instructions appear in our program manual. Basically, the manual says that any amount that a State welfare agency sends to an individual after deducting IAR is considered a retroactive title XVI payment for purposes of this exclusion. The 6-month exclusion period begins the month following the month in which the individual receives the State agency's check. In addition, as noted above, we have created a special notice for use in IAR cases.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements requiring the Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program)

List of Subjects in 20 CFR Part 416

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

Dated: August 18, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 22, 1986.

Otis R. Bowen, M.D.,

Secretary of Health and Human Services.

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

PART 416—[AMENDED]

Subpart B—[Amended]

1. The authority citation for Subpart B of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1110, 1602, 1611, 1614, 1616, 1618, 1619, 1631, and 1634 of the Social Security Act, as amended, Secs. 211 and 212 of Pub. L. 93–66, 49 Stat. 647, 94 Stat. 474, 86 Stat. 1465 and 1474, 90 Stat. 2901, 94 Stat. 445, 86 Stat. 1478, and 87 Stat. 154–156 (42 U.S.C. 1302, 1310, 1381a, 1382, 1382c, 1382e, 1382g, 1382h, 1383, 1383c, and 1396).

2. Paragraph (c)(5)(iii) of § 416.211 is revised to read as follows:

§ 416.211 You are a resident of a public institution.

* * * * *

(c) * * *

(5) * * *

(iii) A jail or other facility where the personal freedom of anyone who lives there is restricted because that person is a prisoner, is being held under court order, or is being held until charges against that person are disposed of; or

* * * * *

Subpart K—[Amended]

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

3. The authority citation for Subpart K of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614, amd 1631, of the Social Security Act, as amended, sec. 211 of Pub. L. 93–66; 49 Stat. 647, as amended, 86 Stat. 1465, 1466, 1468, 1470, 1471, 1473, and 1475, 87 Stat. 154, (42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c, and 1383). Sec. 202 of Pub. L. 96–265, 94 Stat. 449, (42 U.S.C. 1382a).

4. Section 416.1144 is amended by revising the introductory text of paragraph (a)(1) to read as follows:

§ 416.1144 If you live in a nonprofit retirement home or similar institution.

(a) * * *

(1) "Nonprofit retirement home or similar institution" means a nongovernmental institution as defined under § 416.1101, which is, or is controlled by, a private nonprofit organization and which does not provide you with—

* * * * *

Subpart L—[Amended]

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

5. The authority citation for Subpart L of Part 416 continues to read as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614(f) and 1631(d) of the Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1465, 1466, 1468, 1470, and 1473; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c(f) and 1383(d).

6. In § 416.1210, the introductory text of the section is republished and a new paragraph (m) is added to read as follows:

§ 416.1210 Exclusions from resources; general.

In determining the resources of an individual (and spouse, if any) the following items shall be excluded:

* * * * *

(m) Title XVI or title II retroactive payments as provided in § 416.1233.

7. Section 416.1233 is added to read as follows:

§ 416.1233 Exclusion of certain underpayments from resources.

(a) *General.* In determining the resources of an eligible individual (and spouse, if any), we will exclude, for 6 months following the month of receipt, the unspent portion of any title II or title XVI retroactive payment received on or after October 1, 1984. This exclusion

also applies to such payments received by any person whose resources are subject to deeming under this Subpart L.

(b) *Retroactive payments.* For purposes of this exclusion, a retroactive payment is one that is paid after the month in which it was due. A title XVI retroactive payment includes any retroactive amount of federally-administered State supplementation.

(c) *Limitation on exclusion.* This exclusion applies only to any unspent portion of retroactive payments made under titles II and XVI. Once the money from the retroactive payment is spent, this exclusion does not apply to items purchased with the money, even if the 6-month period has not expired. However, other exclusions may be applicable. As long as the funds from the retroactive payment are not spent, they are excluded for the full 6-month period.

(d) *Funds must be identifiable.* Unspent money from a retroactive payment must be identifiable from other resources for this exclusion to apply. The money may be commingled with other funds but, if this is done in such a fashion that the retroactive amount can no longer be separately identified, that amount will count toward the resource limit described in § 416.1205.

(e) *Written notice.* We will give each recipient a written notice of the 6-month exclusion limitation when we make the retroactive payment.

[FR Doc. 86-21978 Filed 9-26-86; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR 390

[Docket No. R-86-1271; FR-2135]

Guaranty of Mortgage-Backed Securities

AGENCY: Office of the President of the Government National Mortgage Association, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations governing the date for the first scheduled monthly payment of principal and interest for a mortgage in a pool backing mortgage-backed securities. Under this rule, a mortgage must have a date of first scheduled monthly payment that is no more than 24 months before the issue date of the securities. The current rule requires this date to be no more than 12 months before the date on which GNMA commits to guarantee the issue of securities. This technical revision is being made to help implement GNMA's Commitment Line System, an automated system for handling the issuance of commitments for mortgage-backed securities which is currently being developed.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publicaton, but not before further notice of the effective date is published in the **Federal Register.** Notice of the effective date will not be published until the Commitment Line System is operational.

FOR FURTHER INFORMATION CONTACT: Richard W. Dyas, Vice President, Office of Mortgage-Backed Securities, Government National Mortgage Association, Room 6224, 451 Seventh Street SW., Washington, DC 20410-9000. Telephone: (202) 755-8772. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 21, 1986, GNMA published a proposed rule to revise the method for determining the date of the first scheduled monthly payment of principal and interest for a mortgage in a pool backing mortgage-backed securities. This revision was proposed to help implement the Commitment Line System, an automated system for handling the issuance of commitments for mortgage-backed securities. GNMA received two public comments in response to the proposed rule, both of which endorsed the proposed revision. This final rule, accordingly, amends 24 CFR 390.7, 390.27 and 390.43, as provided in the proposed rule.

The Commitment Line System is still in development. The Department will therefore delay announcement of the effective date of this rule until the System is operational.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities. The change to be effected by this rule is a technical revision. It is intended to help implement an automated tracking system; it should have little or no economic impact on any entity participating in the affected program.

The rule was listed as Item 928 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 390

Mortgages, Securities.

Accordingly, GNMA amends 24 CFR Part 390 as follows:

PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES

1. The authority citations for Part 390 continues to read as follows:

Authority: Secs. 306(g) and 309(a) of the National Housing Act, 12 U.S.C. 1721(g) and 1723a(a); sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

2. In § 390.7, paragraph (b) is revised to read as follows:

§ 390.7 Mortgages.

* * * * *

(b) Have a date for the first scheduled monthly payment of principal and interest, or a date of purchase from an Association-approved auction, that is no more than 24 months before the issue date of the securities.

* * * * *

3. In § 390.27, paragraph (b) is revised to read as follows:

§ 390.27 Mortgages.

* * * * *

(b) Have a date for the first scheduled monthly payment of principal and interest that is no more than 24 months before the issue date of the securities.

* * * * *

4. In § 390.43, paragraph (c) is revised to read as follows:

§ 390.43 Eligible mortgages.

* * * * *

(c) Have a date for the first scheduled monthly payment of principal (which may be negative) and interest, or a date of purchase from an Association-approved auction, that is no more than 24 months before the issue date of the securities.

Dated: September 23, 1986.

Glenn R. Wilson, Jr.,

President, Government National Mortgage Association.

[FR Doc. 86-21996 Filed 9-26-86; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R-86-1307; FR-2287]

Revision of Portions of Manufactured Home Procedural and Enforcement Regulations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts clarifying amendments to HUD's manufactured home procedural and enforcement regulations. This rule responds to the advice of the District Court for the Western District of Texas. (The court suggested that HUD's existing rule could be misleading.)

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Hammond, Office of General Counsel, Program Compliance and Enforcement Division, Room 10240, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone: (202) 755-7184. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 615(e) of the National Manufactured Housing Construction Safety Standards Act of 1974, 42 U.S.C. 5414(e), provides that where the Secretary of Housing and Urban Development (Secretary) determines that any manufactured home does not comply with the Department's standards or contains a defect that constitutes an imminent safety hazard, the Secretary shall afford the manufacturer "an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance."

Subpart D of the Department's Manufactured Home Procedural and Enforcement Regulations implements the Department's statutory obligation to provide a manufacturer with an opportunity to present views and evidence. As currently written, Subpart D "provides for two types of procedures which may be followed in these cases, one informal and nonadversary, and one more formal and adversary." 24 CFR 3282.151(a). The informal procedure is currently known as a "presentation of views," while the more formal procedure is known as a "hearing." *See* 24 CFR 3282.152(f) and (g).

A recent order of the United States District Court for the Western District of Texas, Waco Division has led to HUD's decision to revise the terms used to identify these informal and formal proceedings under Subpart D. In *Fleetwood Enterprises, Inc.* v. *United States Department of Housing and Urban Development*, No. W-85-CA-298 (April 21, 1986), the district court held that, although the Department has statutory authority to provide for formal and informal proceedings in implementing 42 U.S.C. 5414(e), the language of Part 3282, Subpart D conflicts with the statute. The court stated that the similarity between the language of the statute (which provides an "opportunity to present views and evidence") and § 3282.152(f) (which is titled "presentation of views") would lead the public to believe that there exists a *right* to present views and evidence in an informal, non-adversarial proceeding. The court emphasized that its holding did not mean that the Department could not require a formal proceeding under 42 U.S.C. 5414(e), and suggested that the Department amend § 3282.152.

While the Department does not agree that the current regulations conflict with the statute, or are misleading, it is amending relevant subparts of Part 3282 to respond to the concerns noted in the district court's opinion. These amendments do not change substantively any parties' rights under Subpart D. The amendments are clarifying only. The term "formal presentation of views" is substituted for the term "hearing" (except where the word hearing is used in the context of investigative hearings, *see* § 3282.155, or in connection with references to State administrative agencies, *see* §§ 3282.304, .306). The term "informal presentation of views" will replace the term "presentation of views".

Further, to eliminate possible confusion, §§ 3282.152(b) and 3282.407(b) have been rewritten to make clear that, after a manufacturer requests an opportunity to present views and evidence, the Secretary will determine whether the proceeding shall be a formal or informal presentation of views.

Finally, a number of nonsubstantive editorial changes have been made in the revised sections of Part 3282.

These clarifications of the Department's procedural and enforcement regulation will not make any substantive changes in the regulations. Accordingly, the Department has concluded that notice and public comment on the rule is unnecessary and that good cause exists for publishing the rule as a final rule.

In accordance with 24 CFR 50.20, an environmental finding is not necessary because the change affects only internal administrative procedures and is categorically excluded from the environmental requirements of 24 CFR Part 50.

The rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not (1) have an annual effect on the economy of one hundred million dollars or more (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of the Regulatory Flexibility Act, [5 U.S.C. 605(b)], the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule makes nonsubstantive clarifying changes to an existing rule. These changes should have no economic impact on any party.

This rule was not listed in the Department's Semiannual Agenda of Regulations published April 21, 1986 (51 FR 14036) under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic assistance program number is 14.171, Manufactured Housing-Mobile Home Construction: 14.804, Manufactured Housing.

List of Subjects in 24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes.

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Accordingly, the Department is amending 24 CFR Part 3282 as follows:

1. The authority citation for 24 CFR Part 3282 is revised to read as follows:

Authority: Sec. 625 of the National Manufactured Housing Construction and Safety Standards Act, (42 U.S.C. 5424), sec. 7(d) of the Department of HUD Act, (42 U.S.C. 3535(d)).

2. In Part 3282, the heading for Subpart D is revised to read as follows:

Subpart D—Informal and Formal Presentations of Views, Hearings and Investigations

3. In § 3282.151, paragraphs (d) and (e) are revised, to read as follows:

§ 3282.151 Applicability and scope.

* * * * *

(d) The procedures set out in § 3282.152 shall also be followed whenever State Administrative Agencies hold Formal or Informal Presentations of Views under § 3282.309.

(e) To the extent that these regulations provide for Formal or Informal Presentations of Views for parties that would otherwise qualify for hearings under 24 CFR Part 24, the procedures of 24 CFR Part 24 shall not be available and shall not apply.

4. In § 3282.152, The heading, paragraphs (a), (b), (c) introductory text, (c)(4), (f), (g)(1) and the second sentence of (g)(2) introductory text are revised and the first sentence of (g)(2) introductory text is republished, to read as follows:

§ 3282.152 Procedures to present views and evidence.

(a) *Policy.* All Formal and Informal Presentations of Views under this subpart shall be public, unless, for good cause, the Secretary determines it is in the public interest that a particular proceeding should be closed. If the Secretary determines that a proceeding should be closed, the Secretary shall state and make publicly available the basis for that determination.

(b) *Request.* Upon receipt of a request to present views and evidence under the Act, the Secretary shall determine whether the proceeding will be a Formal or an Informal Presentation of Views, and shall issue a notice under paragraph (c) of this section.

(c) *Notice.* When the Secretary decides to conduct a Formal or an Informal Presentation of Views under this section, the Secretary shall provide notice as follows: * * *

(4) The notice shall state whether the proceeding shall be held in accordance with the provisions of paragraph (f)—(Informal Presentation of Views) or paragraph (g)—(Formal Presentation of Views) of this section, except that when the Secretary makes the determinations provided for in sections 623 (d) and (f) of the Act, the requirements of paragraph (g) of this section shall apply. In determining whether the requirements of paragraph (f) or those of paragraph (g) of this section shall apply the Secretary shall consider the following:

(i) The necessity for expeditious action;

(ii) The risk of injury to affected members of the public;

(iii) the economic consequences of the decisions to be rendered; and

(iv) Such other factors as the Secretary determines are appropriate.

* * * * *

(f) *Informal presentation of views.* (1) An Informal Presentation of Views may be written or oral, and may include an opportunity for an oral presentation, whether requested or not, whenever the Secretary concludes that an oral presentation would be in the public interest, and so states in the notice. A presiding officer shall preside over all oral presentations held under this subsection. The purpose of any such presentation shall be to gather information to allow fully informed decision making. Informal Presentations of Views shall not be adversary proceedings. Oral presentations shall be conducted in an informal but orderly manner. The presiding officer shall have the duty and authority to conduct a fair proceeding, to take all necessary action to avoid delay, and to maintain order. In the absence of extraordinary circumstances, the presiding officer at an oral Informal Presentation of Views shall not require that testimony be given under an oath or affirmation, and shall not permit either cross-examination of witnesses by other witnesses or their representatives, or the presentation of rebuttal testimony by persons who have already testified. The rules of evidence prevailing in courts of law or equity shall not control the conduct of oral Informal Presentations of Views.

(2) Within 10 days after an Informal Presentation of Views, the presiding officer shall refer to the Secretary all documentary evidence submitted, the transcript, if any, a summary of the issues involved and information presented in the Informal Presentation of Views and the presiding official's recommendations, with the rationale therefor. The presiding officer shall make any appropriate statements concerning the apparent veracity of witnesses or the validity of factual assertions which may be within the competence of the presiding officer. The Secretary shall issue a Final Determination concerning the matters at issue within 30 days of receipt of the presiding officer's summary. The Final Determination shall include:

(i) A statement of findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of fact, law, or discretion as presented on the record, and

(ii) An appropriate order.

Notice of the Final Determination shall be given in writing and transmitted by certified mail, return receipt requested, to all participants in the presentation of views. The Final Determination shall be conclusive, with respect to persons whose interests were represented.

(g) *Formal presentation of views.* (1) A Formal Presentation of Views is an adversary proceeding and includes an opportunity for the oral presentation of evidence. All witnesses shall testify under oath or affirmation, which shall be administered by the presiding officer. Participants shall have the right to present such oral or documentary evidence and to conduct such cross-examination as the presiding officer determines is required for a full and true disclosure of facts. The presiding officer shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence. However, the technicalities of the rules of evidence prevailing in courts of law or equity shall not control the conduct of a Formal Presentation of Views. The presiding officer shall take all necessary action to regulate the course of the Formal Presentation of Views to avoid delay and to maintain order. The presiding officer may exclude the attorney or witness from further participation in the particular Formal Presentation of Views and may render a decision adverse to the interests of the excluded party in his absence.

(2) *Decision.* The presiding officer shall make and file an initial written decision on the matter in question. The decision shall be filed within 10 days after completion of the oral presentation. * * *

5. Section 3282.153 is revised to read as follows:

§ 3282.153 Public participation in formal or informal presentation of views.

(a) Any interested persons may participate, in writing, in any Formal or Informal Presentation of Views held under the provisions of paragraph (f) or (g) of § 3282.152. The presiding officer shall, to the extent practicable, consider any such written materials.

(b) Any interested person may participate in the oral portion of any Formal or Informal Presentation of Views held under paragraphs (f) and (g) of § 3282.152 unless the presiding officer determines that participation should be limited or barred so as not unduly to prejudice the rights of the parties directly involved or unnecessarily to delay the proceedings.

6. Section 3282.154 is revised to read as follows:

§ 3282.154 Petitions for formal or informal presentations of views, and requests for extraordinary interim relief.

Any person entitled to a Formal or an Informal Presentation of Views under paragraph (f) or paragraph (g) of § 3282.152 in order to address issues as provided for in § 3282.151(a) may petition the Secretary to initiate such a Presentation of Views. The petition may be accompanied by a request that the Secretary provide appropriate interim relief pending the issuance of the final determination or decision. No interim relief will be granted unless there is a showing of extraordinary cause. Upon receipt of a petition, the Secretary shall grant the petition and issue the notice provided for in § 3282.152(b) for Formal or Informal Presentation of Views, and may grant, deny or defer decision on any request for interim relief.

7. The introductory text of § 3282.206 is revised to read as follows:

§ 3282.206 Disagreement with IPIA or DAPIA.

Whenever a manufacturer disagrees with a finding by a DAPIA or an IPIA acting in accordance with Subpart H of this part, the manufacturer may request a Formal or Informal Presentation of Views as provided in § 3282.152. The manufacturer shall not, however, produce manufactured homes pursuant to designs which have not been approved by a DAPIA or produce manufactured homes which the relevant IPIA believes not to conform to the standards unless and until:

* * * * *

8. In § 3282.302, paragraph (b)(1) is revised to read as follows:

§ 3282.302 State plan.

* * * * *

(b) * * *

(1) Demonstrate how the designated State agency shall ensure effective handling of consumer complaints and other information referred to it that relate to noncompliances, defects, serious defects or imminent safety hazards as set out in Subpart I of this part, including the holding of Formal and Informal Presentations of Views and the fulfilling of all other responsibilities of SAAs as set out in this Subpart G,

* * * * *

9. In § 3282.309, the heading and paragraph (a) are revised to read as follows:

§ 3282.309 Formal and informal presentations of views held by SAAs.

(a) When an SAA is the appropriate agency to hold a Formal or Informal Presentation of Views under § 3282.407 of Subpart I, the SAA shall follow the procedures set out in § § 3282.152 and 3282.153, with the SAA acting as the Secretary otherwise would under that section. Where § 3282.152 requires publication of notice in the **Federal Register**, the SAA shall, to the maximum extent possible, provide equivalent notice throughout the State by publication in the newspaper or newspapers having State-wide coverage or otherwise. The determination of whether to provide an Informal Presentation of Views under § 3282.152(f), or a Formal Presentation of Views under § 3282.152(g), is left to the SAA.

* * * * *

10. In § 3282.355, paragraph (d) is revised to read as follows:

§ 3282.355 Submission acceptance.

* * * * *

(d) Continued acceptance as a primary inspection agency shall be contingent upon continued adequacy of performance as determined through monitoring carried out under Subpart J. If the Secretary determines that a primary inspection agency that has been granted final acceptance is performing inadequately, the Secretary shall suspend the acceptance, and the primary inspection agency shall be entitled to a Formal or Informal Presentation of Views as set out in Subpart D of this part.

11. In § 3282.356, paragraph (a) is revised to read as follows:

§ 3282.356 Disqualification and requalification of primary inspection agencies.

(a) The Secretary, based on monitoring reports or on other reliable information, may determine that a primary inspection agency which has been accepted under this subpart is not adequately carrying out one or more of its required functions. In so determining, the Secretary shall consider the impact of disqualification on manufacturers and other affected parties and shall seek to assure that the manufacturing process is not disrupted unnecessarily. Whenever the Secretary disqualifies a primary inspection agency under this section, the primary inspection agency shall have a right to a Formal or Informal Presentation of Views under Subpart D of this part.

* * * * *

12. In § 3282.407, paragraph (b) heading (b) (2) and (3) are revised, to read as follows:

§ 3282.407 Notification and correction pursuant to administrative determination.

* * * * *

(b) *Notice and request for presentation of views and evidence.*

* * * * *

(2) The notice shall inform the manufacturer that the preliminary determination shall become final unless the manufacturer requests an opportunity to present views and evidence under Subpart D of this part within 15 days of receipt of a Notice of Preliminary Determination of imminent safety hazard.

(3) Promptly upon receipt of a manufacturer's request, a Formal or an Informal Presentation of Views shall be held in accordance with § 3282.152.

* * * * *

Dated: September 3, 1986.

Silvio DeBartolomeis,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 86-21993 Filed 9-26-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8092]

Temporary Regulations on Allocation of Basis to New Target's Assets; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8092,

which was published in the **Federal Register** on July 1, 1986 (51 FR 23737). T.D. 8092 issued temporary regulations relating to allocation of basis of new target's assets if an election is made under section 338 for a qualified stock purchase of an original target that occurred on or before January 29, 1986.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Dale D. Goode of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attn: CC:LR:T). Telephone 202–566–3935 (not a toll-free number).

Background

On July 1, 1986, the **Federal Register** published (51 FR 23737) Treasury Decision 8092 relating to allocation of basis to new target's assets. That document contained temporary regulations under section 338(b) of the Internal Revenue Code of 1954, as added by the Tax Equity and Fiscal Responsibility Act of 1982.

Need For Correction

As published, T.D. 8092 contains typographical errors and errors caused by deletion in the following locations: page 23739, third column, line 14 from the bottom of the page; page 23740, third column, line 6 from the bottom of the page; page 23743, first column, line 32 from the top of the page.

Correction of Publication

Accordingly, the publication of Treasury Decision 8092, which was the subject of FR Doc. 86–14839 (51 FR 23737), is corrected as follows:

Paragraph 1. On page 23739, third column, line 14 from the bottom of the page, the number "83" is removed and the number "8023" is added in its place.

Par. 2. On page 23740, third column, line 6 from the bottom of the page, the language "the places described in (A) or (B) of this" is removed and the language "the places described in subdivision (A) or (B) of this" is added in its place.

§ 1.338(b)–4T [Corrected]

Par. 3. On page 23743, first column, line 32 from the top of the page, in § 1.338(b)–4T(c)(1)(vii) the language "required under § 1.338(B)–" is removed and the language "required under § 1.338(b)–" is added in its place.

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 86–21956 Filed 9–26–86; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300149A; FRL–3087–3]

Pesticides; Tolerance for Ethylene Dibromide on Mangoes; Extension of Expiration Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of rule.

SUMMARY: This rule extends the tolerance for residues of the insecticide ethylene dibromide (EDB) *per se* of .03 ppm (30 ppb) in the edible pulp of mangoes that have been fumigated after harvest with EDB in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture from its expiration date of September 30, 1986 for an additional year to September 30, 1987.

EFFECTIVE DATE: Effective on September 29, 1986.

ADDRESS: Written objections, identified by the document control number [OPP–300149A] may be submitted to the: Hearing Clerk [A–110], Environmental Protection Agency, Room M–3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Linda K. Vlier, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1006, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA., 703–557–0276).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 8, 1986 [51 FR 28603], which proposed the extension until September 30, 1987 of the tolerance of .03 ppm (30 ppb) in 40 CFR 180.397 for residues of the insecticide EDB in the edible pulp of the raw agricultual commodity mangoes resulting from the fumigation of this commodity after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. That rule, which was issued on February 14, 1986 [51 FR 5682], expires on September 30, 1986. In the February 14, 1986 notice establishing the interim tolerance rule, the agency noted that a 1-year renewal would be considered if by September 1986 the U.S. Department of Agriculture (USDA) and the exporting countries have substantially moved toward completion of the basic research required to established alternative fruit fly disinfestation protocols, and data indicate that implementation of non-EDB fruit fly disinfestation techniques by the 1987/1988 season is probable. As discussed in detail in the proposed extension to the interim tolerance rule [51 FR 28603] published on August 8, 1986, the Agency has received information from the USDA and the North American Mango Importer's Association (NAMIA) indicating that the USDA, in cooperation with Haiti and Mexico (the principal countries exporting mangoes to the United States), has substantially completed research required to establish the hot water treatment as an alternative fruit fly disinfestation method and that final approval and implementation of this hot water treatment is probable by the 1987/1988 harvest season. Accordingly, the Agency concluded that the criteria for a 1-year extension of the February 14, 1986 tolerance rule had been satisfied.

Numerous comments in support of the proposed extension of the tolerance rule for residues of EDB in or on mangoes were submitted by U.S. distributors, importers and retailers of imported mangoes, U.S. and foreign airlines and air cargo carriers, U.S. trucking and packaging concerns, other U.S. interests (e.g., irradiation company), foreign governments (i.e. Haiti, Mexico, Peru, Grenada, Santa Lucia, Brazil, Belize), and foreign mango growers and grower groups.

Over 90 commentors, including U.S. distributors, importers, and retailers of imported mangoes, U.S. and foreign airlines and air cargo carriers (including Eastern Air Lines, Air France, Air Haiti, Turks Air, ALM Antillean Airlines, Arrow Air, Caribbean Air Cargo, Haiti Air Freight, Pan Aviation, Aloha Freightways, and Aero Chago), U.S. trucking and packaging concerns, and foreign mango growers and grower groups submitted comments encouraging EPA to extend the expiration date for the tolerance on the basis of several factors, namely that (1) the work accomplished by USDA, and the assurances given by USDA, that sufficient research has been completed to demonstrate the efficacy of the hot water immersion technique indicate that a satisfactory substitute will be available for the 1987/88 harvest season; (2) the continuation of mango imports will help guarantee that the private sector funding necesary to complete the research will be available; (3) the risk is minimal; and (4) the impact on foreign economies will be very important.

In particular, these commentors noted that one in six people in Haiti benefit,

either directly or indirectly, from the mango industry, and that 60,000 Mexican workers would suffer adverse economic consequences if the rule were not extended, thereby resulting in an additional influx of migration into the United States and a loss of five to six million dollars of tax revenues by the U.S. Government. The governments of Peru, Grenada, and Saint Lucia raised similar concerns in their comments in support of the extension.

Brazil also pointed out that any delay in the extension of the rule might threaten the entire mango crop, subjecting a significant number of producers to irreparable loss. Belize noted that the extension of the rule would have a positive effect on the delicate economy of Belize, especially in the areas of employment and foreign exchange. In its comments urging the extension of the rule, Haiti argued that it could not afford to lose the social benefits derived from the export of mangoes, which, after coffee, is the country's main agricultural export. Haiti indicated that these benefits were particularly important since the revenue generated from the export of mangoes goes directly to the peasant.

Finally, Mexico argued that there would be dramatic consequences to a large number of people dependent upon mango imports if the tolerance rule were not extended. In particular, consequences would include (1) a growth of unemployment in the Mexican fields resulting in a lack of income for 60,000 workers annually; (2) an increase in the immigration problems along the U.S.-Mexican border; (3) an increase in mango prices with a resultant damaging effect on the buying capacity of the U.S. consumer; and (4) a damaging effect on other dependent industries, such as distribution, packaging, transportation and agrochemical companies.

The North American Plant Protection Organization (NAPPO), representing the plant protection organizations of the United States, Canada and Mexico, also expressed concern about the effect on Mexico and several Caribbean countries of the expiration of the mango tolerance rule in light of the importance of the mango export trade to these countries. Similar concerns regarding the potential for severe economic and social problems in Haiti and Mexico in the absence of an extension were expressed by the Foundation for Economic Development, Washington, DC.

Strong support for granting the extension was expressed by Lincoln Diversified Systems, an importer of fresh mangoes from Haiti. They argued that a refusal to extend the rule would result in serious economic consequences in Haiti, the poorest country in the Western hemisphere. Also noted by this commentor was that the failure to extend the rule would be contrary to the intention of the Caribbean Basin Initiative program which is specifically designed to foster economic development in countries like Haiti. Prohibiting mango imports, in their view, would not only create economic difficulty in Haiti, but would also tend to undermine the foreign policy of the United States. With regard to the impact on domestic mango growers, Lincoln Diversified Systems expressed its view that the extension would not negatively impact such growers because the products are non-competitive due to non-overlapping shipping seasons. Rather, argued this commentor, the domestic growers would benefit because the development of an alternative treatment would open up the California, Texas and Arizona markets to domestic mangoes. To fail to extend the tolerance rule after the tremendous investment made by the private sector to develop an alternative, and the substantial progress towards timely implementation of alternative treatment, would be inherently unfair in their view. Finally, Lincoln Diversified noted that the extension of the tolerance would not create any unreasonable health risks.

Seald-Sweet Growers, Inc., an agricultural marketing cooperative engaged primarily in the sale and marketing of fresh Florida citrus, which also sells and distributes mangoes imported from Haiti and Belize, provided specific information on improvements in the packing and handling process which have resulted in significant reductions in EDB residues in mangoes. This commentor also argued in favor of the proposed extension in order to permit the commercial development of alternative treatment methods and to prevent economic harm to the mango producing nations. Pointing to the Caribbean Basin Initiative as evidence of the continuing support by the United States for the lesser-developed countries of the Caribbean region, Seald-Sweet Growers noted that continued access to the U.S. market as an outlet for mangoes would result in a significant boost to the economic health of this region.

Support for the Agency's proposed extension was also received from several trade associations for the fresh produce industry. The United Fresh Fruit and Vegetable Association, whose members handle 80 percent of the fruits and vegetables commercially marketed in the United States, supported the proposed extension noting that significant progress has been completed to establish the hot water treatment as an alternative fruit fly disinfestation method by the 1987/88 harvest season. Likewise, the Texas Citrus and Vegetable Import Association, representing 28 companies, most of which are importers and distributors of Mexican produced mangoes, stated their understanding that the hot water immersion technique would be available to replace EDB use by September 30, 1987. In the interim, this association views the ability to continue to import EDB treated mangoes as extremely important to the economic well-being of its members. Also urging extension of the rule was the Produce Marketing Association, whose membership of nearly 2,400 includes most supermarket chains as well as many distribution companies and organizations.

Other supporters of the proposed extension included an importing company, and three mango distributors. A Chicago, Illinois distributor noted that their sales volume of mangoes has been steadily increasing, while a Los Angeles, California company claimed that there was a tremendous demand for mangoes which would be impossible to meet from domestic sources. The third distributor presented various arguments in support of the extension, including the fact that the Food and Drug Administration is enforcing the tolerance, the residue level of EDB is nil by the time the mangoes are consumed, and the likelihood that alternatives will be in place by the 1987/88 season. Finally, a company involved in the development of the irradiation alternative commented in favor of the proposed extension, pointing out that the gamma irradiation alternative could, in addition to the hot water immersion alternative, conceivably be in place where needed in time for the 1988 mango season provided certain and additional data were developed.

The Agency received four comments opposed to the extension of the tolerance rule. The Florida Fruit and Vegetable Association (FFVA), a non-profit agricultural cooperative of shippers, growers and processors of vegetables, citrus, sugarcane and tropical fruit, objected to the proposed rule as unreasonable and unsupportable. FFVA argued that potential health risks may occur if the tolerance rule is extended, and expressed its reservations as to whether the alternative hot water treatment would be approved by the expiration date of the rule. In the view of FFVA, the Agency is likely to be receptive to an extension of the rule despite present denials.

J.R. Brooks & Sons, Inc., Ed Mitchell, Inc., domestic mango growers, and Mr.

N.P. Brooks and Mr. John Keith Mitchell, purchasers and consumers of domestic and foreign mangoes, also objected to the extension of the tolerance rule. These commentors expressed concern that there was no assurance that the alternative treatment method will be in place, tested, and fully operational in all the foreign countries exporting mangoes to the U.S. by September 1987. They also claim that the Agency has failed to consider the serious adverse health effects of continued exposure to EDB on U.S. consumers and on U.S. and foreign workers. In particular, they point to a recent National Institute of Occupational Safety and Health (NIOSH) study which showed statistically significant decreases in sperm count, viability and motility, as well as a significant increase in the percent of abnormally-shaped sperm, in men exposed to EDB air levels averaging 88 ppb with peak exposures of up to 262 ppb. Another contention of these commentors is that the Agency has failed to include in the record for this rule extension information establishing that the tolerance will protect the public health, i.e. chemistry and toxicology data.

Caribe Crown also submitted comments in opposition to the extension, claiming that there were abuses in the system of treatment such that some of the Haitian fruit was not treated with EDB or only minimally treated. This commentor has decided only to ship processed mangoes in a cryogenic film, rather than fresh mangoes.

Finally, the National Coalition Against the Misuse of Pesticides (NCAMP) expressed great concern that the Agency could consider the extension of the tolerance rule in the face of data that EDB is a menace to human health. They urge the Agency to abandon a risk/benefit analysis in which health risk to American workers and consumers is balanced against economic benefit accruing to foreign countries. NCAMP disagrees with EPA's conclusion that the extension of the tolerance for an additional year would not pose a significant health risk, pointing in particular to the recent NIOSH study linking EDB exposure to potential reproductive effects in workers. On the other hand, NCAMP notes that substantial progress has been made in the development of alternative mango disinfestation treatments, and raises the question why the hot water treatment cannot be implemented this season.

The Agency has carefully considered the large number of comments submitted in response to the proposed extension of the tolerance rule. These comments have persuaded the Agency that the extension of the rule will permit the development of an acceptable alternative to EDB treatment in a timely manner, as well as prevent economic hardship to many U.S. and foreign interests. The large number of comments received from U.S. interests documents the Agency conclusion that the impact of terminating this rule without a 1-year extension would create significant local economic harm within this country. Moreover, severe economic distress to Mexico, the Caribbean Basin countries, and other mango producing nations from loss of the U.S. mango trade will be avoided by the extension of the rule.

As discussed previously in the establishment of the rule on February 14, 1986 [51 FR 5684], the Agency has determined that the public health risks are very low [in the 10^{-6} to 10^{-7} range for oncogenic effects] for the 1-year time period covered by this tolerance rule extension. In reaching this assessment, the Agency has taken into account the recent NIOSH study, and has concluded that the EDB residues in mangoes will not rise to the level of exposure sufficient to cause reproductive effects to the American public. EPA is notifying foreign governments that the Agency has reviewed the NIOSH study and agrees with the conclusions reached by NIOSH in order to alert these governments to the potential risk of reproductive impairment in workers posed by high levels of EDB exposure. The Agency does note that conclusions regarding the actual fertility potential of the workers in the NIOSH study cannot be drawn from the data presented in the study.

With regard to the contention that the Agency has failed to document the specific scientific basis for the extension of the rule, the Agency finds this comment puzzling in light of the detailed support information which has been made available to the public. The proposed extension cited a number of rulemaking documents which discussed the Agency's rationale in detail; these rulemaking documents cited extensive support information on the risks posed by EDB which has been long available to the public.

Although the Agency appreciates the concern expressed by some commentors regarding the possibility that the alternative treatment method will not be in place by September 30, 1987, the Agency has no basis for believing that the hot water treatment will not receive USDA approval by the expiration date of this rule. A detailed discussion of the progress of the research by the Agricultural Research Service, USDA was provided in the proposed notice of extension. As discussed in the proposal, USDA has assured EPA that sufficient research has been completed to date to demonstrate that the hot water immersion technique at 115° F will be effective in achieving quarantine control without causing phytotoxicity to the mangoes. Based on the necessity to complete laboratory tests as well as confirmatory tests on various varieties of mangoes and several fruit fly species in order to meet quarantine standards, the approval of the method cannot be achieved immediately, as suggested by one commentor.

Based on the information considered by the Agency, and discussed in detail in the proposed extension of August 8, 1986 [51 FR 28603], and in previous rulemaking documents for this tolerance rule, published in the **Federal Register** of August 10, 1984 (49 FR 32088); January 17, 1985 (50 FR 2547); November 27, 1985 (50 FR 48799); and February 14, 1986 (51 FR 5682), and after consideration of comments submitted to the docket, the Agency has concluded that the extension of the tolerance rule in 40 CFR 180.397 until September 30, 1987 will protect the public health. The Agency has evaluated the risks resulting from the extension of this tolerance rule, and has concluded that the risk is acceptable for this 1-year period. The reasons for this conclusion have been discussed at length in the documents cited above. As discussed in the proposed extension, the Agency believes that the criteria for a 1-year extension of the tolerance rule in 40 CFR 180.397 for residues of .03 ppm (30 ppb) EDB *per se* in the edible pulp of mangoes fumigated in accordance with USDA Programs have been satisfied. Therefore, the rule is extended until September 30, 1987. The Agency reiterates that it will not be receptive to any extention of this rule beyond September 30, 1987.

Any person adversely affected by this regulation granting a 1-year extention for the tolerance of .03 ppm (30 ppb) for residues of EDB *per se* in the edible pulp of mangoes may, within 30 days after the date of publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections should state the issues for the hearing. A hearing will

be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

In the event that a hearing is sought, this tolerance rule remains effective during the pendency of the hearing. Section 408(d)(4), FFDCA.-

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests, Recordkeeping and reporting requirements.

Dated: September 22, 1986.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 180—[AMENDED]

Therefore, 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 180.397(c) is revised to read as follows:

§ 180.397 Ethylene dibromide; tolerances for residues.

* * * * *

(c) Tolerances are established for residues of ethylene dibromide *per se* in or on the following raw agricultural commodities resulting from use of ethylene dibromide as a fumigant after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture.

Commodities	Parts per million	Expiration date
Mangoes	.03 ppm	September 30, 1987.

[FR Doc. 86–21936 Filed 9–26–86; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 51, No. 188
Monday, September 29, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-188-AD]

Airworthiness Directives; Airbus Industrie Models A300 and A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 and A310 series airplanes, that would require replacement of the nose landing gear drag strut upper attachment pin. This action is prompted by reports of pins which were found to be improperly manufactured. Failure of this pin could result in collapse of the nose landing gear.

DATE: Comments must be received no later than November 20, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-188-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-188-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on Airbus Industrie Model A300 and A310 series airplanes. Defective pins, which support the upper end of the nose landing gear drag strut, have been discovered on these airplanes. The defective pins, which are safe-life parts, have been shown, by testing, to crack prematurely. During production inspection of the pins, corner radii on certain attachment pins were found to be insufficient (less than 2 mm). Fatigue tests performed on these attachment pins showed that cracks could initiate at insufficiently radiused corners, where the radius is out of tolerance or where there is too tight a radius. This condition, if not corrected, can result in failure of the pin and subsequent collapse of the nose landing gear.

Airbus Industrie has issued Service Bulletins A300-32-374 (applicable to Model A300 airplanes) and A310-32-2023 (applicable to Model A310 airplanes), both dated April 16, 1986, which describe replacement of the nose landing gear drag strut upper attachment pin. The DGAC has classified these service bulletins as mandatory.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of these models registered in the United States, an AD is proposed that would require replacement of the nose landing drag strut upper pin, in accordance with the service bulletins previously mentioned.

It is estimated that 60 airplanes of U.S. registry would be affected by this AD, that it would take approximately 17 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $16,800.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($280). A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to Airbus Industrie Model A300 and A310 airplanes listed in Airbus Industrie Service Bulletins A300–32–374 and A310–32–2023, both dated April 16, 1986, certificated in any category. To prevent collapse of the nose landing gear, due to failure of the drag strut upper attachment pin, accomplish the following, unless previously accomplished:

A. Prior to the accumulation of 16,000 landings or within the next 600 landings, whichever occurs later, replace the nose landing gear drag strut upper attachment pin in accordance with Airbus Industrie Service Bulletins A300–32–374 (applicable to Model A300 airplanes) or A310–32–2023 (applicable to Model A310 airplanes), both dated April 16, 1986.

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

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

All persons affected by this proposed directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 22, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–21674 Filed 9–26–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–189–AD]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspections for cracks in the wing top skin stringers joint at rib 9 on Airbus Industrie Model A300 B2 and B4 series airplanes. Fatigue testing by the manufacturer has shown the development of cracks in this joint which, if not corrected, would render the wing incapable of carrying required loads.

DATES: Comments must be received no later than November 20, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–189–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Golder, Standardization Branch, ANM–113; telephone (206) 431–2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–189–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The French Civil Aviation Authority, Direction Générale de L'Aviation Civile (DGAC), in accordance with the bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on Airbus Industrie Model A300 series airplanes. Fatigue testing by the manufacturer has shown the development of cracks in the wing top skin stringers joint at rib 9. Cracks in this joint, if not corrected, could render the wing incapable of carrying required loads.

Airbus Industrie has issued Service Bulletin A300–57–118, Revision 1, dated March 29, 1984, which describes procedures for inspection for cracks of the wing top skin and stringer joint at rib 9. The DGAC has classified this service bulletin as mandatory.

Airbus Industrie Service Bulletin A300–57–077, Revision 1, dated December 15, 1979, describes Modification No. 2099, which replaces clearance fit HI–LOK bolts with taperlock bolts. This modification, if incorporated, would eliminate the need for repetitive inspections of the joint area.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed tht would require inspections for cracks and repair, if necessary, of the wing top skin and stringer joint at rib 9, in accordance with the Airbus Industrie service bulletin previously mentioned.

It is estimated that 15 airplanes of U.S. registry would be affected by this AD, that it would take approximately 200 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $120,000.

For the reasons discussed above, the FAA has determined that this document

(1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have significant economic impact on a substantial number of small entities because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

339.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes, certificated in any category. To prevent the development of cracks which can lead to wing skin failure, accomplish the following within 90 days after the effective date of this AD, or upon reaching the threshold indicated below, whichever occurs later, unless already accomplished:

A. Inspect for cracks the top skin of each wing at the level of rib 9, between front and rear spars, prior to the accumulation of 17,000 landings for B2 series airplanes, and prior to the accumulation of 14,200 landings for B4 series airplanes, in accordance with the accomplishment instructions of Airbus Industrie (AI) Service Bulletin A300-57-118, Revision, 1, dated March 29, 1984. Thereafter, repeat the inspections at intervals not to exceed 7,600 landings.

B. If cracks are found during the inspections required by paragraph A., above, follow procedures described in paragraph 1.C.(5) of AI Service Bulletin A300-57-118, Revision 1, dated March 29, 1984.

C. Incorporation of A1 Modification 2099, as described in Airbus Service Bulletin A300-57-077, Revision 1, dated December 15, 1979, which replace clearance fit HI-LOK bolts with taperlock bolts, constitutes terminating action for the inspection requirements of this AD.

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

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

All persons affected by this proposed directive who have not already received the appropriate service bulletin from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 22, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-21876 Filed 9-26-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-170-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which would require structural inspections and repair, as necessary, of the aft lower cargo doorway frames on certain Boeing Model 737 airplanes. The AD is prompted by numbers at the aft lower cargo doorway. Continued operation with undetected cracked frames could result in skin cracks and rapid decompression of the airplane.

DATE: Comments must be received on or before November 20, 1986.

ADDRESS: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-170-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service bulletin may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Perella, Airframe Branch, ANM-120S; telephone (206) 432-1922. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103, Attention: Airworthiness Rules Docket No. 86-NM-170-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been reports by eleven different operators of twenty-two instances of cracking occurring in the forward frame at Body Station (BS) 794.3 on Boeing Model 737 series airplanes. The cracking was found on airplanes with 22,000 to 51,000 flight cycles. Continued operation with cracks in the doorway frames could result in rapid decompression, possible blowout of the aft lower cargo door, or the inability to carry fail-safe loads required by Federal Aviation Regulations (FAR) Part 25.571(b).

Boeing has issued, and the FAA has approved, Boeing Service Bulletin 737-53-1096, dated July 24, 1986, which describes repetitive inspections to detect cracking of the aft lower cargo

door frames on Boeing Model 737 airplanes.

Since this condition is likely to exist on other airplanes of the same type design, the FAA proposes to adopt an airworthiness directive which would require repetitive inspections of the aft lower cargo door frames on certain Boeing Model 737 airplanes in accordance with the Boeing service bulletin previously mentioned. Any cracks found must be repaired, prior to further flight, in accordance with an FAA-approved repair method.

It is estimated that 475 airplanes of U.S. registry would be affected by this AD, that approximately 36 manhours per airplane would be required to perform the necessary inspections, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators would be $684,000 for each inspection cycle.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 737 series airplanes listed in Boeing Service Bulletin 737-53-1096, dated July 24, 1986, certificated in any category. To prevent rapid loss of cabin pressure resulting from undetected frame cracking, accomplish the following prior to the accumulation of 20,000 landings or within the next 1,000 landings after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 3,000 landings:

A. Conduct a high frequency eddy current inspection of the forward and aft body frames adjacent to the aft lower cargo door for cracks, in accordance with Boeing Service Bulletin 737-53-1096, dated July 24, 1986, or later FAA-approved revisions. Thereafter, repeat the high frequency eddy current inspections at intervals not to exceed 4,000 landings.

B. If cracks are found, prior to further flight, repair in accordance with an FAA-approved repair method.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

All persons affected by this proposal who have not already received the appropriate service bulletin from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 22, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-21875 Filed 9-26-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-40-AD]

Airworthiness Directives; British Aerospace Models HP 137 Mk.1, Jetstream Series 200 and Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to British Aerospace (BAe) Models HP 137 Mk.1, Jetstream Series 200 and Jetstream Model 3101 airplanes which would require inspection and repair (if necessary) of the yoke pintle housing for the landing gear attachment spigot of the main leg forging. A case has been reported of a crack in this area of the forging, attributed to stress corrosion found during routine landing gear removal. This proposed action will detect these cracks before landing gear failure and preclude the loss of the airplane.

DATE: Comments must be received on or before December 3, 1986.

ADDRESSES: BAe Mandatory Service Bulletin (MSB) No. 32-A-JA851226 dated December 19, 1985, and BAe Air Weapons Division (AWD) Service Bulletin (S/B) No. 32-19 dated December 19, 1985, both applicable to this AD may be obtained from British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435-9100, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-40-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Brussels Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 513.38.30; or Mr. Harvey Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the

substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-40-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

BAe, the manufacturer, has received a report of a crack in the yoke pintle housing for the landing gear attachment spigot of the main leg forging. The reported crack which was found during routine landing gear removal has been attributed to stress corrosion. As a result, BAe has issued MSB No. 32-A-JA851226 dated December 19, 1985, applicable to BAe Model HP 137 Mk.1, Jetstream Series 200 and Jetstream Model 3101 airplanes, referencing BAe AWD S/B No. 32-19 dated December 19, 1985, which require both initial and repetitive visual and eddy current inspections, and repair if necessary, of the yoke pintle housing for the landing gear attachment spigot of the main leg forging. These inspections and repairs are required to prevent the development of hazardous cracks in the main landing gear forging. The Civil Airworthiness Authority-United Kingdom (CAA-UK) which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom has classified this BAe service bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of CAA-UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of BAe MSB No. 32-A-JA851226 and BAe AWD S/B No. 32-19 and the mandatory classification of this service bulletin by CAA-UK. Based on the foregoing, the FAA believes that the condition addressed by BAe MSB No. 32-A-JA851226 and BAe AWD S/B No. 32-19 is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require both initial and repetitive inspections as well as repair, if necessary, on the affected airplanes. The inspections using eddy current techniques would be required within 300 landings and repeated every 1200 landings hereafter. Intermediate visual inspections would be required at intervals of 300 landings.

The FAA has determined there are approximately 26 airplanes affected by the proposed AD. The cost of inspection and repairing these airplanes as required by the proposed AD is estimated to be $600 per airplane. The total cost is estimated to be $15,600 to the private sector. Few, if any, small entities own the affected airplanes, therefore, the cost of compliance is so small that it would not impose a significant economic impact on any such owners.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

British Aerospace: Applies to Models HP 137 Mk.1 (all serial numbers), Jetstream Series 200 (all serial numbers) and Jetstream Model 3101 airplanes (serial numbers 601 to 606), equipped with Main Landing Gear Type Numbers 1863 and 1864 (all suffixes), certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent the development of hazardous cracks in the main landing gear pintle housing, accomplish the following:

(a) Within 300 landings and every 1200 landings thereafter: Conduct an eddy current inspection in accordance with Section 2 "Accomplishment instructions", Part A "Non-destructive Testing" of British Aerospace (BAe) Mandatory Service Bulletin (MSB) No. 32-A-JA851226 dated December 19, 1985, Section 2 "Accomplishment instructions" of BAe Air Weapons Division (AWD)Service Bulletin (S/B) No. 32-19 dated December 19, 1985. If cracks are found, before further flight carry out repairs in accordance with AWD S/B No. 32-19.

(b) At intervals of 300 landings after the initial inspection, required by paragraph (a) of this AD, conduct a visual inspection in accordance with Section 2 "Accomplishment instructions," Part B, "Visual inspections of AWD S/B No. 32-19. If indications of cracks are discovered, conduct an eddy current inspection in accordance with paragraph (a) of this AD. If cracks are found, before further flight carry out repairs in accordance with AWD S/B No. 32-19.

(c) Within 300 landings after a heavy or abnormal landing, conduct an eddy current inspection in accordance with paragraph (a) of this AD.

(d) If the actual number of landings is unknown for the purpose of complying with this AD, one landing may be substituted for each ½ hour of flight unless the operator substantiates a different flight hours to landings ratio. This substantiation must be submitted to, and approved by, the Manager, Aircraft Certification Staff, address below.

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

(f) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishment of these inspections concurrent with other scheduled maintenance on the airplane.

(g) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000, Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435-9100; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 19, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-21880 Filed 9-26-86; 8:45 am]

BILLING CODE 4910-13-M

Notices

Federal Register
Vol. 51, No. 188
Monday, September 29, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meat Import Limitations; Fourth Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Pub. L. 96–177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lambs, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62) which may be imported into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1986 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

As published on January 2, 1986 (51 FR 44), the estimated aggregate quantity of meat articles prescribed by subsection 2(c), as adjusted by subsection 2(d) of the Act, for calendar year 1986 is 1,309 million pounds.

In accordance with the requirements of the Act, I have determined that the fourth quarterly estimate for 1986 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1986 is 1,395 million pounds.

Done at Washington, DC, this 21st day of September, 1986.

Richard E. Lying,

Secretary.

[FR Doc. 86–21902 Filed 9–26–86; 8:45 am]

BILLING CODE 3410–10–M

Forest Service

Boundary Establishment; Hubbard Glacier Geological Area, Tongass National Forest, AK

AGENCY: Forest Service, USDA.

ACTION: Notice; establishment of Hubbard Glacier Geological Area, Russell Fiord Wilderness, Tongass National Forest, Alaska.

SUMMARY: On August 25, 1986, the Secretary of Agriculture issued a Designation Order establishing the Hubbard Glacier Geological Area, Russell Fiord Wilderness, Tongass National Forest, Alaska. This designation recognizes the unique geologic event that occurred as a result of rapid advance of the Hubbard Glacier and its subsequent damming of Russell Fiord. The text of the order as signed by the Secretary appears at the end of this notice.

ADDRESS: The public may inspect a map of the area in the office of the Forest Service Recreation Staff, Room 4231 South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250 during normal bunisess hours.

FOR FURTHER INFORMATION CONTACT: Dave Rittenhouse, Recreation Group Leader, Recreation Staff, Alaska Region, ((907) 586–8729) or Ed Bloedel, Recreation Specialist, Recreation Staff, Washington DC, ((202) 447–2311).

Dated: September 22, 1986.

R. Max Peterson,

Chief.

Designation Order—Hubbard Glacier Geological Area, Russell Fiord Wilderness Tongass National Forest

By virtue of the authority vested in me by the Organic Administration Act of 1897, (16 U.S.C. 551) and the Forest and Rangeland Renewable Resources Planning Act as amended (16 U.S.C. 1604), an area of approximately 46,000 acres located in the Russell Fiord Wilderness Area and shown on the attached map is hereby designated as the Hubbard Glacier Geological Area. This Area is designated in recognition of the unique geologic even that has occurred as a result of the rapid advance of the Hubbard Glacier and its damming of Russell Fiord.

It is directed that National Forest System land within the Area be administered under the regulations and policies of the laws governing the Tongass National Forest and the law establishing the Russell Fiord Wilderness. The Forest Service will develop specific direction for the Geological Area to study and interpret the ecological and social effects of this event. Direction developed pursuant ot this order shall be incorporated by amendment into the Tongass National Forest Land Management Plan.

Dated: August 25, 1986.

Richard E. Lyng,

Secretary of Argiculture.

[FR Doc. 86–21913 Filed 9–26–86; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 30–86]

Proposed Foreign-Trade Zone in Monroe County, NY; Amendment of Application

Notice is hereby given that the County of Monroe, New York, has amended its application to establish a general-purpose foreign-trade zone in Monroe County, New York (Doc 1–84, 49 FR 1261, 1/10/84). The County is authorized to make this proposal under Chapter 574, Laws of New York 1976. The amended application was formally filed on September 12, 1986. A current docket number has been assigned to the case, and the old one is closed.

The amendment involves a complete revision of the operating plan. Monroe FTZ Operators, Inc. has been selected to be the new operator of the zone project. The original sites are being replaced with the 4 following: Site 1 is an 18-acre general-purpose warehouse complex at 401–409 Pixley Road, Gates, operated by Rochester Storage Warehouse. Site 2 is the ITEK Graphic Systems warehouse on 6-acres, 330 Clay Road, Henrietta. Sites 3 and 4 involve two 200,000 square foot warehouses operated by the Norry Company/Landsman Development Corp., at 3750 Monroe Ave., Pittsford, and at 200 Carlson Road, Rochester.

In accordance with the Board's regulations, an examiner's committee has been appointed to investigate the amended application and report to the Board. The committee consists of John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, Washington, DC 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer St., Boston, MA; and Colonel Daniel R. Clark, District Engineer, U.S. Army

Engineer District Buffalo, 1776 Niagara St., Buffalo, NY 14207.

Comments concerning the amended application are invited from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked before October 27, 1986.

Copies of the new application as well as the original one are available for pubic inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Rochester Branch, 121 East Avenue, Rochester, NY 14604

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Dept. of Commerce, Rm. 1529, 14th and Pennsylvania, NW., Washington, DC 20230

Dated: September 24, 1986.

John J. Da Ponte,

Executive Secretary.

[FR Doc. 86-21972 Filed 9-26-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Leather Wearing Apparel From Argentina; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On May 14, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on leather wearing apparel from Argentina. On October 30, 1985, the Department published the revised preliminary results of its review. The review covers the period March 18, 1983 through June 30, 1983 and four programs.

We gave interested parties opportunities to comment on the preliminary results and on the revised preliminary results. After review of the comments received, the Department has determined the total bounty or grant for the period to be 4.40 percent *ad valorem*.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Sylvia Chadwick or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; Telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 11480) a countervailing duty order on leather wearing apparel from Argentina. We began this review under our old regulations and published the preliminary results of the review on May 14, 1984 (49 FR 20348). On September 17, 1985, after the promulgation of our new regulations, a domestic interested party, the Amalgamated Clothing and Textile Workers' Union ("the union"), requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of this order. On October 30, 1985, the Department published in the **Federal Register** (50 FR 45139) the new initiation and revised preliminary results of review. The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Import covered by the review are shipments of Argentine leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants, and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. Such merchandise is currently classifiable under items 791.7620, 791.7640, and 791.7660 of the Tariff Schedules of the United States Annotated.

The review covers the period March 18, 1983 through June 30, 1983 and four programs: (1) The reembolso, a cash rebate of taxes upon export; (2) an export Tax on hides; (3) pre-export financing; and (4) incentives for exports from southern ports.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the original preliminary results. At the request of the union and two importers, Excelled Sheepskin and Leather Coat Company ("Excelled") and Comint Leather Goods, Inc., we held a public hearing on June 28, 1984. We received comments from the Government of Argentina, the union, and Excelled. We also gave interested parties the opportunity to comments on the revised preliminary results. We received written comments from a manufacturer/exporter, Comercio International, S.A. ("Comercio"), and Excelled.

Comment 1: Comercio and Excelled argue that the question of linkage should not be an issue in this review because: (1) The Department has previously found that linkage existed in its final affirmative countervailing duty determination (46 FR 23090; April 23, 1981); (2) the rate of indirect tax incidence on leather wearing apparel has undergone no significant change since that final determination; and (3) the reembolso rate on leather wearing apparel during the period of review was substantially lower than the level of indirect tax incidence previously determined by the Department.

Department's Position: We agree that linkage is not an issue in this review and have not reopened the question of linkage. Once we find a program to be linked, we do not necessarily revisit that issue in each review. However, we still have an obligation in each review to measure the amount of the overrebate, if any. We need updated information on the tax incidence for each review period in order to measure any overrebate, a separate issue from whether the program meets the linkage test.

Comment 2: Comercio and Excelled argue that, in order to find the five percent reembolso not countervailable, the Department need only establish that the manufacturer/exporter paid a total of final stage taxes and taxes on the purchase of materials physically incorporated into leather wearing apparel equal to or exceeding the five percent reembolso payments. The firms assert that submissions by the Government of Argentina in this and other Argentine investigations have demonstrated the pervasive existence of final stage taxes (a 1.3 percent municipal tax, a 0.6 percent fee on foreign currency transactions, and a 1.0 percent stamp tax on export contracts) totaling 2.9 percent. They claim that the Department's reasoning in not allowing the 1.3 percent municipal tax is difficult to understand when the Department verified that Comercio paid municipal taxes at higher rates of 1.5 and 2.5 percent. As for the stamp tax on contracts, they claim that this tax is universal in Argentina and payment could easily have been verified if the Department had merely tried.

The companies further assert that Comercio, the sole exporter, has demonstrated an indirect tax rate of 3.8 percent on its directly purchased materials (a 1.5 percent gross receipts or sales tax, a 1.3 percent municipal tax and a 1.0 percent stamp tax on contracts) yielding a tax incidence of 2.2 percent on the physically incorporated portion of those materials. The firms thus claim that, even by making no allowance for prior stage taxes, Comercio has demonstrated an indirect

tax incidence of over five percent, has paid these taxes and, consequently, the Department should find no subsidy for this program.

Department's Position: In our verification meetings with Comercio, we were able to verify payment of only one final stage tax, the 0.60 percent fee on foreign currency transactions. While we verified payments of a municipal tax at rates of 1.5 and 2.5 percent, we received no explanation as to why the rates differed from the 1.3 percent reported in the questionnaire response nor could we confirm the nature of the tax. We were unable even to determine whether it was collected on sales or on property values. A tax on property values is not a tax on items physically incorporated into the exported product and thus may not be rebated. With respect to the stamp tax on export contracts, we were unable to verify it because Comercio did not have available any records of payment.

Comercio was also unprepared, unwilling or unable to provide the data on its cost structure necessary for us to quantify with precision the actual tax incidence on physically-incorporated inputs. Based on information provided by Comercio, we attempted to construct the actual cost structure and tax incidence. We verified the cost of materials consumed during 1983, but we were unable to verify the taxes paid on these purchases. We requested but did not receive sufficient documentation on the tax rates on the raw materials used, grouped by Comercio in its records as leather, chemicals and other products. In addition, Comercio paid no taxes on tanned hides and had no records of the taxes paid on raw hides by its wholly-owned tannery, which purchased and tanned the hides used by Comercio. We verified from invoices that Comercio paid import duties ranging from 10 to 37 percent on the purchase of various chemicals, but without a breakdown of how much of each of these chemicals was imported and no tax data on domestically-purchased chemicals, we were unable to calculate the tax incidence on the chemicals consumed. As for the other physically incorporated products, the most important was lining. We were unable to verify the extent to which lining was imported, despite Comercio's claim that it all was, and for the same reason as with chemicals we could not determine a value for the tax incidence on domestic lining.

We have deducted the final stage tax of 0.60 percent on foreign currency transactions from the five percent total bounty or grant found in the revised preliminary results. Thus, we find a bounty or grant from the reembolso of 4.40 percent *ad valorem.*

Comment 3: The Government of Argentina, Comercio and Excelled assert that, if the Department nonetheless determines that it has been unable to verify the tax incidence on leather wearing apparel generally or the incidence for Comercio, the Department, in deciding whether the reembolso is an overrebate, must use as the best information available the data previously submitted by the Government of Argentina and verified by the Department in the original investigation in this case.

Department's Position: In the original investigation, to determine the amount of the reembolso that was an allowable rebate of indirect taxes the Department used data that included the tax incidence on the stages of production prior to the apparel manufacturing stage, including the purchase of hides from tanneries. We learned during the verification in this review that Comercio paid no indirect taxes on the purchase of tanned hides during the current period of review because Comercio used only leather produced by its wholly-owned tannery. Therefore, we cannot use the tax incidence found during the original investigation.

Comment 4: The union contends that an export tax on hides, benefiting the Argentine leather wearing apparel industry by creating an artificially low domestic price for hides and leather, constitutes a domestic subsidy.

Department's Position: We do not agree that the export tax on hides constitutes a subsidy to exports of leather wearing apparel. The Department's position is unchanged from the revised preliminary results and is that stated in the final results of the administrative review of the countervailing duty order on non-rubber footwear from Argentina (49 FR 9922; March 16, 1984).

Final Results of the Review

After consideration of all of the comments received, we determine the total bounty or grant during the period of review to be 4.40 percent *ad valorem.*

The Department will instruct the Customs Service to assess countervailing duties of 4.40 percent of the f.o.b. invoice price for all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 18, 1983 and exported on or before June 30, 1983.

The Argentine government's resolution M.E.1090/84 eliminated the reembolso on leather wearing apparel effective October 29, 1984. Therefore, the Department will instruct the Customs Service not to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556; August 13, 1985).

Dated: September 23, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-21971 Filed 9-26-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-601]

Preliminary Negative Countervailing Duty Determination; Porcelain-on-Steel Cooking Ware From Spain

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Spain of porcelain-on-steel cooking ware. The estimated net subsidy is 0.25 percent *ad valorem.* The rate is *de minimis,* and, therefore, our preliminary countervailing duty determination is negative. We have notified the U.S. International Trade Commission (ITC) of our determination.

If this investigation proceeds normally, we will make our final determination by December 8, 1986.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0186 (Letort) or 377-0161 (Taverman).

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that the following programs are countervailable:

- Export Pre-Financing Loans Provided Under the Privileged-Circuit Export Credit Program
- Working Capital Loans Provided Under the Privileged-Circuit Export Credit Program
- Regional Investment Incentives

We preliminarily determine the estimated net subsidy to be 0.25 percent *ad valorem*. Although we have determined these programs to be countervailable, the respondents received *de minimis* benefits during the review period. Therefore, we preliminarily determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Spain of porcelain-on-steel cooking ware.

Case History

On June 30, 1986, we received a petition in proper form filed by the Porcelain-on-Steel Committee of the Cookware Manufacturers Association, of Walworth, Wisconsin, and the General Housewares Corporation, of Terre Haute, Indiana.

In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Spain of porcelain-on-steel cooking ware receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry. We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on July 21, 1986, we initiated such an investigation (51 FR 26730, 7/25/86). We stated that we expected to issue a preliminary determination by September 23, 1986.

Since Spain is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Spain materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On August 14, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Spain of porcelain-on-steel cooking ware (51 FR 29710, 8/20/86).

On July 30, 1986, we presented a questionnaire to the government of Spain in Washington, DC concerning the petitioners' allegations and requested a response by August 29, 1986. On August 19, 1986, upon request of respondents, we granted additional time to submit a response. On September 5, 1986, we received responses to our questionnaire.

There are two known producers and exporters in Spain of porcelain-on-steel cooking ware that exported to the United States during the review period. These are the San Ignacio group of companies and Vitrex S.A. According to the government of Spain, the San Ignacio group and Vitrex account for substantially all exports of porcelain-on-steel cooking ware to the United States.

Scope of Investigation

The products covered by this investigation are porcelain-on-steel cooking ware. Including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are provided for in items 654.0815, 654.0824,and 654.0827 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Kitchen ware, currently provided for under item 654.0828 of the *TSUSA*, is not subject to this investigation.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" (49 FR 18006, 4/26/84).

Consistant with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidization ("the review period") is calendar year 1985. In their responses, the government of Spain, the San Ignacio group, and Vitrex provided data, including financial statements, for the applicable period.

Based upon our analysis of the petition and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer a Subsidy

A. Export Pre-Financing Loans Provided Under the Privileged-Circuit Export Credit Program

Petitioners allege that exporters of porcelain-on-steel cooking ware from Spain are benefiting from a system of short-term preferential loans mandated by the government of Spain for exporters. Under this system of "privileged-circuit export credits," at least four types of loans are alleged to be available to exporters of porcelain-on-steel cooking ware: (1) Working capital loans, (2) pre-financing of exports, (3) short-term export credits, and (4) commercial service loans.

In its response, the government of Spain stated that it requires all Spanish commercial banks to maintain a specific percentage of their lendable funds in privileged-circuit accounts. These funds are made available to exporters at below-market interest rates through a variety credit programs, including pre-financing of exports, short-term export credits, and commercial service loans. Under the terms of a Treasury Order, dated April 14, 1982, the working-capital loan program for exporters has been gradually phased out and was terminated on January 1, 1986.

With respect to the other three types of export financing available under this program, Royal Decree 2254/85 of November 20, 1985, increased interest rates applicable to these loans and is gradually reducing the maximum amount to be financed until these loans are totally eliminated in 1990. The maximum interest rate applicable to these loans is now the average rate paid on Spanish Treasury bills of one year or more in the semester preceding the loan, plus two percentage points. According to the government response, the maximum amount of allowable financing will decrease, starting on January 1, 1986, by 10 percent at the beginning of each semester until the program's total elimination in four-and-a-half years. The maximum amount of allowable financing for short-term export financing has been reduced to 72 percent of the export value as of July 1, 1986, and to 68 percent of the export value for the pre-financing of exports as of the same date.

In their responses, the San Ignacio group and Vitrex both reported having pre-financing export loans outstanding during 1985. The maximum term of these loans was 90 days. Although no direct outlay of government funds is used to finance privileged-circuit export loans, these loans are the result of a

government-mandated program to promote exports. Because availability of this type of financing is contingent upon exports, we preliminarily determine that it is countervailable to the extent that it is offered at preferential rates.

To determine whether these loans were made at preferential rates, we compared the interest rate charged on export pre-financing loans during the review period with the commercial benchmark, which we determine is the "free" three-month lending rate by Spanish private banks as published in the *Boletin Estadistico* of the *Banco de Espana*. This comparison shows that the interest rate on these export loans is below the benchmark. Accordingly, we preliminarily determine this program to be countervailable.

To calculate the benefit arising from these loans, we used our short-term loan methodology, and applied the interest-rate differential to the principal amounts of the loans. Although the government of Spain's response states that each individual pre-financing loan is tied to a specific export transaction, the company responses do not match each loan to specific products or export markets. Therefore, we allocated the benefit over the total value of exports of the subject merchandise to the United States, which resulted in an estimated net subsidy of 0.05 percent *ad valorem*.

Although the government response states that the current rates of interest charged under this program are higher than those charged during the review period, our calculations do not reflect this change because we have no information concerning the current level of utilization of this type of loans. We will carefully examine the changes in this program during verification.

B. Working-Capital Export Loans Under the Privileged-Circuit Export Credit Program

As stated in section I.A. of this notice, working-capital loans were also provided for a term of one year under the Privileged-Circuit Export Credit Program. According to the government response, these loans were terminated on January 1, 1986, pursuant to a Treasury Order of April 14, 1982.

As stated in section I.A. above, although no direct outlay of government funds is used to finance these loans, they are the result of a government-manated program to promote exports. Because availability of this type of financing is contingent upon exports, we preliminarily determine that it is countervailable to the extent that it is offered at preferential rates.

To determine whether these loans were made at preferential rates, we compared the interest rate charged on working-capital loans with the commercial benchmark, which we determine is the "free" one-to-three-year lending rate by Spanish private banks as published in the *Boletin Estadistico* of the *Banco de Espana*. This comparison shows that the interest rate on these export loans is below the benchmark. Accordingly, we preliminarily determine this program to be countervailable.

To calculate the countervailable benefit, we used our short-term loan methodology, and applied the interest-rate differential to the principal amounts of the loans. In this case, the government of Spain's response does not indicate that working-capital export loans are tied to specific export transactions. Therefore, we allocated the benefit over the total value of the all exports by the respondents, which resulted in an estimated net subsidy of 0.03 percent *ad valorem*.

Although the government response indicates that the provision of these types of loans was terminated on January 1, 1986, our calculations do not reflect this change. The San Ignacio group reports having working-capital export loans outstanding through 1987, loans which are financing current exports of the subject merchandise from Spain. We will carefully examine changes in this program during verification.

C. Regional Investment Incentives

Petitioners allege that the porcelain-on-steel cooking ware industry in Spain may have benefited from certain regional investment programs.

In its response, the San Ignacio group acknowledges having received certain grants from two agencies of the Basque regional government, *viz.*: (1) Energy conservation grants from the Center for Energy Savings and Mining Development (CADEM), and (2) technological research grants from the Department of Industry and Energy of the Basque regional authority. Although San Ignacio claims that eligibility for these grants is neither contingent upon export performance nor limited to any specific regions, industries or groups of industries, the government of Spain has given us no information relative to these programs (such as copies of the laws and regulations governing these investment incentive programs, or any other information concerning the two agencies and the programs that they administer). In this case, the company response provides no evidence that these grant programs are not limited to specific enterprises. In addition, grants provided by CADEM were found to be countervailable in our *Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Spain* (49 FR 47060, 11/30/84). Therefore, we preliminarily determine that these grant programs confer countervailable benefits to manufacturers, producers, or exporters in Spain of porcelain-on-steel cooking ware.

To calculate the value of the subsidy, we used our grant methodology as outlined in the Subsidies Appendix. We expensed the total value of the grants received in 1985 over the respondents' total sales in that year, because these grants represent less than 0.5 percent of the San Ignacio group's total sales. Because we lacked sales data for years prior to 1985, we were unable to determine whether the grants received in those years exceeded or fell short of the 0.5 percent threshold. Therefore, as best information available, we allocated all grants received prior to 1985 over the average useful life of capital assets in the porcelain-on-steel cooking ware industry, which we preliminarily determine to be 12 years. For the discount rate, we used the domestic corporate bond yield of long-term issues on Spanish financial markets, as published by the Morgan Guaranty Trust Company of New York in *World Financial Markets*. We then divided the 1985 benefit by the respondents' total sales for the year. On this basis, we calculated an estimated net subsidy of 0.17 *ad valorem*.

II. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs were not used.

A. Certain Types of Loans Provided Under the Privileged-Circuit Exporter Credit Program

Petitioners allege that exporters of porcelain-on-steel cooking ware from Spain are benefiting from short-term export credits and commercial service loans under the Privileged-Circuit Exporter Credit Program.

In their responses, the San Ignacio group and Vitrex disclaimed having any such export loans outstanding during the review period.

B. Preferential Medium- and Long-Term Loans and Loan Guarantees

Petitioners allege that producers of porcelain-on-steel cooking ware in Spain receive medium- and long-term loans on terms inconsistent with commercial considerations under the National Steel Industry Program established by Royal Decree 669/74. Petitioners also allege that the Banco de Crédito Industrial (BCI), a government-

owned credit institution, was authorized under the Order of May 22, 1980 to give additional credits to those steel companies that had made investments under the 1974–1982 program.

In their responses, the government of Spain and the respondent companies denied that the porcelain-on-steel cooking ware industry in Spain had received any such loans or loan guarantees.

C. Preferential Loans and Benefits Conferred by the INI

Petitioners allege that the porcelain-on-steel cooking ware industry in Spain receives aid from the Instituto Nacional de Industria (INI) in the form of loans and loan guarantees at below-market interest rates and on terms inconsistent with commercial considerations.

In their responses, the government of Spain and the respondent companies denied that the porcelain-on-steel cooking ware industry in Spain had received any such loans or loan guarantees.

D. Warehouse Construction Loans

Petitioners allege that the porcelain-on-steel cooking ware industry in Spain receives loans on terms inconsistent with commercial considerations to construct warehouse facilities adjacent to export loading zones.

In their responses, the government of Spain and the respondent companies claim not to have made or received any such loans.

E. Expropriation of Lands for New Construction

Petitioners allege that Royal Decree 669/74 provides aid to the porcelain-on-steel cooking ware industry by facilitating the expropriation of land for new plant construction.

In their responses, the government of Spain and the respondent companies deny that such benefits were made available to the porcelain-on-steel cooking ware industry.

F. Energy Discounts

Petitioners allege that the porcelain-on-steel cooking ware industry in Spain receives discounts or rebates on energy prices under Law 878/81.

In their responses, the government of Spain and the respondent companies deny that any energy discounts or rebates were made available to the porcelain-on-steel cooking ware industry.

III. Program Preliminarily Determined To Have Been Terminated

Excessive Rebates of Indirect Taxes

Petitioners allege that, under the program called "Desgravacion Fiscal a la Exportacion" (DFE), exporters receive excessive rebates of indirect taxes that are levied on each intermediate sale of a product up to, but not including, the final sale at the retail level. We have determined this program to confer a subsidy in several previous Spanish countervailing duty cases, most recently *Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Spain* (49 FR 47060, 7/30/84).

In its response, the government of Spain states that Law 30/85 dated August 2, 1985, repeals the cascading turnover tax and the DFE effective January 1, 1986. On the same date, Spain instituted a value-added tax in order to bring its tax legislation into line with that of the European Communities, of which it became a member. In their responses, the respondent companies state that they are not receiving in 1986 any DFE rebates earned in 1985. Therefore, we preliminarily determine that this program has been terminated, and on benefits under the program are accruing to current exports of porcelain-on-steel cooking ware from Spain to the United States.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

ITC Notification

In accordance with section 703(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without consent of the Deputy Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 75 days after the Department makes its final determination.

Public Comment

In accordance with § 355.35 of the Commerce Regulations (19 CFR 355.35) we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination, at 10:00 a.m. on November 7, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B–099, at the above address within 10 days of the publication of this notice in the Federal Register.

Requests should contain: (1) The party's name, address. and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the proprietary version and seven copies of the nonproprietary version of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary by October 27, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, all written views will be considered if received not less than 30 days before the final determination is due, or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 703(f) of the Act [19 U.S.C. 1671b(f)].

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

September 23, 1986.

[FR Doc. 86–21973 Filed 9–26–86; 8:45 am]

BILLING CODE 3510–DS–M

Portland Hydraulic Cement and Cement Clinker From Mexico; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on portland hydraulic cement and cement clinker from Mexico. The review covers the period January 1, 1984 through December 31, 1984 and 15 programs.

As a result of the review, the Department has preliminarily determined the total bounty or grant to be zero for two firms, 0.28 percent *ad valorem* for one firm, and 3.35 percent *ad valorem* for all other firms during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Alan Long or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 43063) a countervailing duty order on portland hydraulic cement and cement clinker from Mexico. On September 27, 1985 and October 11, 1985, two Mexican exporters, Cementos de Chihuahua, S.A., and Cementos Anahuac del Golfo, S.A., requested in accordance with § 355.10 of the Commerce Regulations an administrative review of the order. We published the initiation of the administrative review on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Mexican portland hydraulic cement and cement clinker other than white non-staining. Such merchandise is currently classifiable under items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1984 through December 31, 1984 and 15 programs: (1) FOMEX; (2) Article 94 of the Banking Law; (3) CEPROFI; (4) FONEI; (5) NDP preferential discounts; (6) state tax incentives; (7) FOMIN; (8) FOGAIN; (9) import duty reductions and exemptions; (10) export services offered by IMCE; (11) Bancomext loans; (12) delay of payments on loans; (13) delay of payments to PEMEX of fuel charges; (14) preferential state investment incentives; and (15) CEDI.

Analysis of Programs

(1) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters for two purposes: pre-export (production) financing and export financing. We consider both pre-export and export FOMEX loans to be export bounties or grants since these loans are given only on merchandise destined for export. We found that the annual interest rate that financial institutions charged borrowers for FOMEX pre-export financing outstanding during the period of review, denominated in Mexican pesos, ranged from 7 to 25.50 percent. The annual interest rate for FOMEX export financing, denominated in the currency of the importing country, ranged from 3.5 to 10 percent during the period of review.

Since we do not now have sufficient information to measure effective interest rates in Mexico, we chose nominal peso and dollar rates as our benchmarks. For peso-denominated loans, we used as a benchmark for the commercial interest rate in Mexico the average of the nominal interest rates published monthly by the Banco de Mexico in the *Indicadores Economicos*. For dollar-donominated loans, we used interest information obtained from the U.S. Federal Reserve Board.

We consider the benefit, or the cash flow effect, from loans to occur when the interest is paid. The interest on FOMEX pre-export loans is paid at maturity. Since both 1983 and 1984 FOMEX pre-export loans matured during 1984, we use peso benchmarks from both years. For FOMEX export loans, on which the interest is pre-paid, we used only a 1984 benchmark.

Based on this information, we preliminarily determine that comparable peso-denominated loans were available commercially at 62.70 percent for the outstanding pre-export loans from 1983 and 54.73 percent for the pre-export loans obtained in 1984. Comparable dollar-denominated loans were available in 1984 at 13.99 percent. We found the resulting interest differentials to range between 29.23 percent and 55.70 percent for peso-denominated loans and between 3.99 percent and 10.49 percent for dollar-denominated loans.

Two of the seven known exporters of this merchandise, Cementos Anahuac del Golfo, S.A., and Cementos de Chihuahua, S.A., used these programs during the period of review. Because both exporters were able to tie all FOMEX loans to exports to specific countries, we used only the FOMEX loans on U.S. shipments and allocated the benefit over only the value of total U.S. shipments (excluding exports from firms with zero or *de minimis* aggregate benefits) during the period fo review. On this basis, we preliminarily determine the benefit from FOMEX pre-export loans to be 0.48 percent, and from FOMEX export loans to be 1.46 percent, for a total benefit during the review period of 1.94 percent *ad valorem*.

On June 16, 1986, the Banco de Mexico changed the interest rates for FOMEX pre-export and export financing to 48 percent and 6.5 percent, respectively. To calculate the estimated duty deposit rate, we compared the new FOMEX interest rates to our most recent commercial benchmarks. The interest differential for peso-denominated loans is 28.58 percent, and for dollar-denominated loans, 6.36 percent. On this basis, we preliminarily find, for purposes of cash deposits of estimated countervailing duties, a FOMEX benefit of 1.79 percent *ad valorem*.

(2) Article 94 of the Banking Law

Section 2 of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations ("the Banking Law") established that up to 25 percent of a bank's total deposits must be funneled as loans into specially designated sectors of economic activity. Loans granted under section 2 are obtained at below-market interest rates.

In Circular 1842/79, the Banco de Mexico established 12 categories of industries that are eligible to obtain financing under section 2 of Article 94. Most categories carry their own maximum interest rates, set by the Banco de Mexico. Category 12 consists only of exports of manufactured products.

We consider financing obtained at the preferential interest rate under category 12 to constitute an export bounty or grant because it is given only on merchandise destined for export. Producers of portland hydraulic cement and cement clinker received financing under category 12 during the period of review and had category 12 loans outstanding at the end of 1983. The interest on category 12 loans is paid at maturity. To calculate the benefit from these peso-denominated loans, we used as a benchmark the same average commercial interest rates as for the FOMEX pre-export loans. The resulting interest differentials ranged between 10.88 and 11.73 percent in 1983 and between 2.78 and 10.39 percent in 1984.

Since these Article 94 loans are based on shipments to specific countries, we allocated the benefits that each company received on its exports to the

United States over the value of total exports (excluding exports from firms with zero or *de minimis* aggregate benefits) of the merchandise to the United States during the period of review. On this basis, we preliminarily determine the benefit from this program to be 0.07 percent *ad valorem.*

(3) CEPROFI

Certificates of Fiscal Promotion ("CEPROFI") are tax certificates that are used to promote the goals of the National Development Plan ("NDP") and are granted in conjunction with investments in designated industrial activities and geographic regions. CEPROFI certificates can be used to pay a variety of federal tax liabilities.

Article 25 of the decree that established the authority for issuing CEPROFI's, published in the *Diario Oficial* on March 6, 1979, requires each recipient to pay a four percent supervision fee. The four percent supervision fee is "paid in order to qualify for, or to receive," the CEPROFI's. Therefore, it is an allowable offset, as defined by section 771(6)(A) of the Tariff Act, from the gross bounty or grant.

Portland hydraulic cement and cement clinker firms received CEPROFI benefits under three provisions: "Category I," which makes CEPROFI certificates available for the manufacture and processing of construction and capital goods; "Category II," which makes CEPROFI certificates available for particular industrial activities; and a third provision, which makes CEPROFI certificates available for the purchase of Mexican-made equipment.

The Department held in the final affirmative countervailing duty determination on bricks from Mexico (49 FR 19564, May 8, 1984) that CEPROFI certificates granted for the purchase of Mexican-made equipment are not countervailable since such certificates are available to any company that purchases Mexican-made equipment.

We consider the other two types of CEPROFI certificates to be domestic bounties or grants because they are available only to certain industries. We allocated the benefits each company received from the Category I and Category II CEPROFI provisions, less the four percent supervision fee, over the total value of each firm's sales to all markets during the period of review. We then weight-averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the United States of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine that one firm, Cementos Mexicanos, S.A., received benefits of 0.28 percent *ad valorem*, a rate we consider *de minimis*, and that all other firms received benefits of 1.08 percent *ad valorem* during the period of review.

(4) FONEI

The Fund for Industrial Development ("FONEI"), administered by the Banco de Mexico, is a specialized financial development fund that provides long-term loans at below-market rates. FONEI loans are available under various provisions having different eligibility requirements. The plant expansion provision is designed for the creation, expansion, or modernization of enterprises in order to promote the efficient production of goods capable of competing in the international market or to meet the objectives of the NDP, which include industrial decentralization. We consider this FONEI loan provision to confer a bounty or grant because it restricts loan benefits to those enterprises located outside of Zone IIIA.

Cementos de Chihuahua, S.A., and Cementos Anahuac del Golfo, S.A., were the only two exporters that had FONEI loans for plant expansion or modernization outstanding during the period of review. Cementos de Chihuahua, S.A., received a ten-year variable-rate loan in September 1981, an eight-year variable-rate loan in September 1982, a three-year variable-rate loan in February 1984, and an eight-year variable-rate loan in March 1984. Cementos Anahuac del Golfo, S.A., received a seven-year variable-rate loan in December 1984. Since no interest payments fell due during 1984 on Cementos Anahuac del Golfo's December 1984 FONEI loan, no benefits resulted from this loan during the period of review.

We treated Cementos de Chihuahua's variable-rate FONIE loans as a series of short-term loans. To calculate the benefits from these peso-denominated loans, we used as a benchmark the same average commercial interest rates as for FOMEX pre-export loans. We allocated the benefits over the company's total sales to all markets. We then weight-averaged the resulting *ad valorem* benefits by the company's proportion of the value of Mexican exports to the United States of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from this program to be 0.01 percent *ad valorem.*

(5) NDP Preferential Discounts

Preferential discounts are granted under the NDP to companies located in specific regions or engaged in certain priority activities. During the period of review, Cementos de Chihuahua, S.A. received credits equal to a 15 percent discount on its purchases of natural gas, and Cementos Portland Nacional, S.A., received credits equal to a 10 percent discount on its purchases of heavy fuel oil.

We consider the benefits from this program to be equal to the total value of the credits received. We allocated the total value of the credits by each firm during the period of review over the value of that firm's sales to all markets during the period. We then weight-averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the United States of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefits from this program to be 0.25 percent *ad valorem.*

(6) Other Programs

We also examined the following programs and preliminarily find that exporters of portland hydraulic cement and cement clinker did not use them during the review period:

(A) State tax incentives;

(B) National Industrial Development Fund ("FOMIN");

(C) Guarantee and Development Fund for Medium and Small Industries ("FOGAIN");

(D) Import duty reductions and exemptions;

(E) Export services offered by the Mexican Institute of Foreign Commerce ("IMCE");

(F) Bancomext loans;

(G) Delay of payments on loans;

(H) Delay of payments to PEMEX of fuel charges;

(I) Preferential state investment incentives; and

(K) Tax Rebate Certificates ("CEDI").

Companies With Zero Benefits

We preliminarily determine that Cementos Anahuac, S.A., and Cementos Maya, U.A., received on benefits from any of the countervailable progams that we examined during this period of review.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be zero for Cementos Anahuac, S.A., and Cementos Maya, S.A., 0.28 percent *ad valorem* for Cementos Mexicanos, S.A., and 3.35 percent *ad valorem* for all other firms. The Department considers any rate less

than 0.50 percent *ad valorem* to be *de minimis*.

The Department intends to instruct the Customs Service not to assess countervailing duties on shipments of Mexican portland hydraulic cement and cement clinker from the three firms with zero or *de minimis* benefits, and to assess countervailing duties of 3.35 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1984 and on or before December 31, 1984.

The increase in the FOMEX interest rates reduces the total estimated bounty or grant to 3.20 percent *ad valorem*. Therefore, the Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments from Cementos Anahuac, S.A., Cementos Maya, S.A., and Cementos Mexicanos, S.A., and to collect 3.20 percent of the f.o.b. invoice price on shipments from all other firms entered, or withrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements and waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: September 23, 1986.

Gibert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-21970 Filed 9-26-86; 8:45 am]

BILLING CODE 3510-DS-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held October 22, 1986, 9:00 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue, NW, Washington, DC. The Swiching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Office of Technology and Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda

1. Opening remarks by the Chairperson.

2. Presentation of papers or comments by the public.

3. Additional industry recommendations for revisions to ECCN 1567. The objective of these revisions is to provide more precise definition of terms, more precise wording to eliminate ambiguities as to the commodities described, and to eliminate overlaps with other ECCN's.

Specific additional recommendations on these issues and on the procedure for revision are requested.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executice Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: September 22, 1986.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-21947 Filed 9-26-86; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held October 21, 1986, 9:00 a.m. Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue, NW, Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda

1. Opening remarks by the Chairperson.

2. Review and approval of the minutes of September 17, 1986, meeting.

3. Presentation of papers or comments by the public.

4. Presentation by Fiber Optics Subcommittee Chairperson of industry proposals for changes or ECCN's 1353, 1359, 1526 and 1767.

5. Presentation by Radio Subcommittee Chairperson of industry proposals for changes to ECCN 1520 regarding satellite earth terminal equipment.

6. Presentation by Subcommittee Chairpersons of industry recommendations for new additions to CCL entry listings of commodities likely to be approved for export to the PRC.

7. Chairman's annual report for FY 1986.

Executive Session

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Commitee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377–4959.

Dated: September 22, 1986.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86–21946 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-DT-M

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or § 355.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than October 31, 1986, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October, for the following periods:

	Period
Antidumping Duty Proceeding	
Shop towels from the People's Republic of China	10/01/85–09/30/86
Steel Wire Rope from Japan	10/01/85–09/30/86
Barium Chloride from the People's Republic of China	04/06/84–09/30/86
Pressure Sensitive Plastic Tape from Italy	10/01/85–09/30/86
Countervailing Duty Proceeding	
Certain Carbon Steel Products from Sweden	03/20/85–02/28/86
Certain Iron Metal Castings from India	01/01/85–12/31/85
Agricultural Tillage Tools from Brazil	06/04/85–12/31/85
Canned Tuna from the Philippines	01/01/85–12/31/85

A request must conform to the Department's interim final rule published in the **Federal Register** (50 FR 32556) on August 13, 1985. Seven copies of the request should be submitted to the Deputy Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by October 31, 1986.

If the Department does not receive by October 21, 1986 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 23, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86–21969 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket No.: 85–193. Applicant: Drexel University, Philadelphia, PA 19104. Instrument: Molten Metal Spray-deposition System. Manufacturer: Osprey Metals Ltd., United Kingdom. Date of denial without prejudice to resubmission: May 29, 1986.

Docket No.: 86–028. Applicant: University of Miami, Miami, FL 33136. Instrument: Echo-Opthalmograph, Model 7200 MA with Accessories. Manufacturer: Kretztechnik Company, Austria. Date of denial without prejudice to resubmission: June 11, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–21977 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-DS-M

Research Foundation of SUNY; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Material Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86–265. Applicant: Research Foundation of SUNY, Buffalo, NY 14214. Instrument: Mass Spectrometer, Model MM70–SE. MANUFACTURER: VG Analytical Ltd., United Kingdom. Intended use: See notice at 51 FR 28402.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such proposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides continuously variable mass resolution up to 50 000 (10% valley definition), mass range 1–3000 amu at 8kV, 1–16 000 amu at 1.5kV and less than 0.3 second cycle time for 500–25–500. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–21979 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-DS-M

University of Arizona; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–211. Applicant: University of Arizona, Tucson, AZ 85721. Instrument: Monochromator. Manufacturer: SOPRA, France. Intended use: See notice at 51 FR 21012.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory, for an existing instrument, providing a guaranteed resolution of 650 000:1. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument of apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–21974 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-DS-M

University of Kentucky; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 82–263. Applicant: University of Kentucky, Lexington, KY 40506–0055. Instrument: Accessories for Infrared Spectrometer consisting of an IMH 06 Wide Range MCT Detector and an IMG 20 Purgeable Sample Well. Manufacturer: Bomem Inc., Canada. Intended use: See notice at 51 FR 28402.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: These are compatible accessories for an instrument previously imported for the use of the applicant. The instrument and accessories were made by the same manufacturer.

The accessories are pertiment to the intended uses. We know of no comparable domestically manufactured accessories which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–21975 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammal Permits; Withdrawal of Application of Dr. Steven D. Feldkamp and Dr. Daniel P. Costa (P372A)

On May 20, 1986 notice was published in the **Federal Register** (51 FR 18477) that an application had been filed by Dr. Steven D. Feldkamp and Dr. Daniel P. Costa, Institute of Marine Sciences, University of California, Santa Cruz, California 95064, for a permit to take seventy (70) northern fur seals *(Callorhinus ursinus)* at Saint Paul Island, Alaska.

Notice is hereby given that this application was withdrawn and the withdrawal request has been acknowledged and accepted without prejudice by the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW, Rm. 805, Washington, DC;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115.

Dated: September 22, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–21900 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-22-M

Modification to Marine Mammal Permit of Southwest Fisheries Center

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 387 issued to Southwest Fisheries Center, P.O. Box 271, La Jolla, California 92038, on July 19, 1982 (47 FR 31914), and modified on January 23, 1985 (50 FR 3950) is further modified to extend the period of authorized taking for two years.

Section B–3 is deleted and replaced by:

"3. This permit is valid with respect to the taking authorized herein until December 31, 1988."

This modification becomes effective upon publication in the **Federal Register.**

The Permit, as modified, and documentation pertaining to the modifications are available for review in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: September 22, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–21899 Filed 9–26–86; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Thursday, October 16, 1986 at 10:00 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566–1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, September 22, 1986.

Charles H. Atherton,

Secretary.

[FR Doc. 86–21886 Filed 9–26–86; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of the Import Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

September 23, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 29, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377–4212.

Background

A CITA directive of December 24, 1985, which established import limits for specified categories of cotton, wool and man-made fiber textile products, including women's, girls' and infants' wool trousers in Category 448, and other men's and boys' coats of man-made fibers in Category 634, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, was published in the **Federal Register** on December 30, 1985 (50 FR 53182). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, and at the request of the Government of the People's Republic of China, the restraint limit for Category 448 is being increased from 19,060 dozen to 20,013 dozen by the application of swing for the agreement year which began on January 1, 1986. To account for the swing applied to Category 448, the limit for Category 634 is being reduced from 429,350 dozen to 428,935 dozen for merchandise exported during the same 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 25, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules or the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

September 23, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 24, 1985, as amended, from the Chairman of the Committee for the Implementation of Textile Agreements, which established restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1986.

Effective on September 29, 1986, the directive of December 24, 1985 is hereby further amended to adjust the previously established restraint limits for textile products in Categories 448 and 634, as follows, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended.[1]

Category	Adjusted twelve-month limit [1]
448	20,013 dozen
634	428,935 dozen

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–21968 Filed 9–26–86; 8:45 am]

BILLING CODE 3510–DR–M

Adjustment of the Import Limit for Certain Cotton Textiles Produced or Manufactured in the Arab Republic of Egypt

September 24, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA) under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 30, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On May 6, 1986 a notice was published in the **Federal Register** (51 FR 16733), which announced an import restraint limit for Category 301 (combed cotton yarn), among others, produced or manufactured in Egypt and exported during the current agreement year which began on January 1, 1986 and extends through December 31, 1986. The Bilateral Cotton Textile Agreement of December 7 and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt, under the terms of which this limit was established, also includes provision for the carryover of shortfalls from the previous agreement year in certain categories (carryover). Under the foregoing provision of the bilateral agreement and at the request of the Government of the Arab Republic of Egypt, the sublimit established for Category 301 is being increased to 1,403,566 pounds by the application of carryover for goods exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

[1] The agreement provides, in part, that: (1) With the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules Of The United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

September 24, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on April 30, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in the Arab Republic of Egypt and exported during 1986.

Effective on September 30, 1986, the directive of April 30, 1986 is hereby further amended to adjust the previously established limit for cotton textiles in Category 301, as provided under the terms of the bilateral agreement of December 7 and 28, 1977, as amended and extended:[1]

Category	Adjusted 1986 Limit[1]
301	1,403,456 pounds

[1] The limit has not been adjusted to account for any imports exported after December 31, 1985.

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).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-21967 Filed 9-26-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement

Adjustment of the Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Macau

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 September 30, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated December 10, 1985 (50 FR 50934) established limits for certain specified categories of cotton, wool and man-made fiber textile products, including man-made fiber blouses and shirts in Category 641, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984 between the Governments of the United States and Macau, the restraint limit for Category 641 is being reduced from 94,880 dozen to 92,909 dozen to account for carryforward used during the agreement year which began on January 1, 1985.

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 1397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

September 24, 1986.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

September 24, 1986.

Committee for the Implementation of Textile Agreement

Commissioner of Customs,
Department of the Treasury Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 10, 1985 from the Chairman, Committee for the Implementation of Textile Agreements, which established restraint limits for certain cotton, wool, and man-made fiber textile products, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986.

Effective on September 30, 1986 the directive of December 10, 1985 is hereby further amended to adjust the previously established restraint limit for Category 641 under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984, as amended to the following: [1]

Category	Adjusted 12-month limit [2]
641	92,909 dozen.

[2] The limit has not been adjusted to reflect any imports exported after December 31, 1985.

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).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-21966 Filed 9-26-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Performance of Registration Functions by National Futures Association; Delegation of Authority

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing the National Futures Association ("NFA"), effective September 29, 1986, to assume the responsibility to process and, where appropriate, grant applications for registration with the Commission as a floor broker in accordance with the standards established by the Commodity Exchange Act ("Act") and Commission regulations thereunder. This Order does not authorize NFA to grant conditional registrations to floor brokers or to deny, revoke or take any other adverse actions with respect to such registrations. This Order also does not authorize NFA to accept or act upon requests for exemption or withdrawal from registration or to render "no-

[1] The agreement provides, in part, that: (1) Within the aggregate limit specific restraint limits may be exceeded by designated percentages; (2) specific limits may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

action" opinions with respect to applicable registration requirements.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director, or Linda Kurjan, Esq., Special Counsel, Division or Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–9703 or (202) 254–8955, respectively.

SUPPLEMENTARY INFORMATION: By the Order below issued on this date, the Commission is authorizing NFA to assume the performance of additional registration functions on behalf of the Commission. In this connection, in a separate notice published elsewhere today in the **Federal Register**, the Commission is amending its regulations governing the registration of floor brokers. Specifically, Commission rule 3.11 governing floor broker registration under the Act, 17 CFR 3.11, is being amended to make clear, among other things, that floor broker registration applications and related documents must be filed with NFA. In addition, Commission rules 3.2 and 3.11, 17 CFR 3.2 and 3.11, are being amended to: Eliminate the one-year period of registration for floor brokers whose registrations have neither been suspended, revoked nor withdrawn and who continue to hold trading privileges on a Commission designated contract market; and provide a special registration procedure whereby any individual whose floor broker registration has terminated within the preceding sixty days and who is granted trading privileges by another contract market will be registered as a floor broker upon mailing to NFA of a Form 8–R and the fingerprints of the applicant.[1]

Further, Commissioin rule 3.31, 17 CFR 3.31, is being amended to require that each contract market that has granted trading privileges to an individual who is registered, or has applied for registration, as a floor broker notify NFA within twenty days after such individual has ceased having trading privileges on such contract market. NFA has also undertaken to process the periodic updates to the Form 8–R required under Commission rule 3.31(b), 17 CFR 3.31(b).[2]

[1] Concurrent with issuance of this Order, the Commission in a separate order published elsewhere today in the **Federal Register** is extending indefinitely the registration of each floor broker whose registration would otherwise expire on March 31, 1987, provided such floor broker has trading privileges on an exchange on that date.

[2] Letter to Joseph H. Harrison, General Counsel, National Futures Association, from Andrea M. Corcoran, Director, Division of Trading and Markets, Commodity Futures Trading Commission, dated January 10, 1986.

United States of America Before the Commodity Futures Trading Commission

Order Authorizing the Performance of Registration Functions

I. Authority and Background

Pursuant to section 8a(10) of the Act, the Commission previously has issued orders authorizing NFA to perform various portions of the Commission's registration functions and responsibilities under the Act.[3] By letter dated June 27, 1986, NFA has formally requested that the Commission further authorize NFA, no later than October 1, 1986, to process and, where appropriate, grant applications for registration as a floor broker.

Upon consideration, the Commission has determined to authorize NFA, effective September 29, 1986, to perform such registration functions in accordance with the standards established by the Act and Commission regulations thereunder. In authorizing NFA to undertake these registration functions, the Commission is retaining certain of the responsibilities pertaining to the registration of floor brokers.[4] Specifically, the Commission has not authorized NFA to refuse to register, to register conditionally, or to suspend, revoke or place restrictions upon the registration of a floor broker. NFA also is not authorized to act upon requests for exemption or withdrawal from registration, or to render "no-action" opinions with respect to applicable floor brokers registration requirements. The Commission intends to continue to perform these functions as they relate to floor brokers.[5]

II. Assumption of Registration Functions

NFA has undertaken to begin on or before October 1, 1986 to process and, in appropriate cases, grant applications for registration with the Commission as a floor broker in accordance with the standards established by the Act and the Commission regulations thereunder. NFA will perform these registration responsibilities pursuant to rules adopted by the Commission.[6] In this connection, the Commission will continue to establish the registration application filing fee for such registrants.[7]

[3] Section 8a(10) of the Act provides that the Commission may authorize any person to perform any portion of the registration functions under the Act in accordance with rules, notwithstanding any other provision of law, adopted and submitted by that person to the Commission and subject to the provisions of the Act applicable to registrations granted by the Commission. 7 U.S.C. 12a(10) (1982). In this connection, on August 3, 1983, NFA was authorized to assume responsibility for processing and granting applications for initial and renewal registrations of introducing brokers and their associated persons. 48 FR 35158 (August 3, 1983). Subsequently, on October 9, 1984, NFA was authorized to assume responsibilities from the Commission with respect to the registration of futures commission merchants, commodity pool operators, commodity trading advisors, and associated persons of such registrants. 49 FR 39593 (October 9, 1984). On August 28, 1985, NFA was authorized by the Commission to deny, condition, suspend, restrict or revoke the registration of any person applying for registration or registered in any of the aforementioned categories. 50 FR 34885 (August 28, 1985). The Commission has not, however, authorized NFA to accept or to act upon requests for exemption or withdrawal from registration or to render "no-action" opinions with respect to the applicable registration requirements.

[4] Pursuant to NFA Bylaw 512 approved by the Commission on this date, NFA will not seek or accept from the Commission any authority in connection with the registration of floor brokers that exceeds the authority granted to NFA in this initial Commission order authorizing NFA to perform certain floor broker registration functions or any other authority sought or accepted by NFA under the terms of Bylaw 512 without the consent of contract market directors representing two-thirds of contract market members.

[5] The Commission further notes that section 17(p) of the Act requires NFA to "establish training standards and proficiency testing for . . . all persons for which it has registration responsibilities." 7 U.S.C. 21(p) (1982). While this section would appear to require NFA to establish testing requirements for floor brokers if it performs registration functions with respect to such registrants, the Commission does not believe that it was the intent of Congress to require testing of floor brokers by NFA, since it was understood that floor brokers were not an NFA membership category. In this connection, therefore, because NFA is merely serving in a clerical capacity with respect to floor broker registration applications pursuant to this Order, and floor brokers are gaining no membership status with NFA, the Commission has determined to adopt a no-action position with respect to the establishment of a testing requirement for floor brokers. Thus, the Commission will not institute any enforcement action against NFA for its failure, in reliance on this no-action position, to establish such requirement.

[6] The Commission is separately approving amendments to NFA Bylaw 305, Schedule A, Sections I (a) and (g), which make explicit NFA's position that it will carry out the floor broker registration responsibilities authorized in this Order solely in accordance with standards established by the Act and the regulations promulgated thereunder.

[7] Pursuant to section 26(c) of the Act, the Commission may not establish a registration application filing fee that exceeds the actual cost of performing the registration function. The Commission notes that there does not appear to be any reason why the cost of processing a floor broker registration application should exceed the cost of processing an application for registration as an associated person. In this connection, the Commission further notes that the current application fee for floor broker applicants is $25.00. NFA has not requested the Commission to adjust this fee and the Commission has no information that would indicate a change in the application filing fee is warranted.

Section 17(o)(2) of the Act provides that the Commission may authorize NFA, in performing Commission registration functions, to deny, condition, suspend, restrict or revoke any registration, subject to Commission review.[8] However, the Commission has expressly not authorized NFA to take any such adverse registration actions with respect to the floor broker registration applications that it processes pursuant to this Order.[9]

In the absence of authority to institute such adverse actions with respect to a floor broker applicant, NFA shall, except with respect to such categories of statutory disqualifications and in such circumstances as may be specified to NFA by the Commission or authorized staff, forward to the Commission the entire registration file (or such portion as the Commission or its staff may request) or any applicant or registrant who appears to be subject to a statutory disqualification, and NFA shall not take any final action with respect to such applicant or registrant except in accordance with written instructions from the Commission or authorized staff.

NFA shall make all reasonable efforts to determine whether an applicant is subject to a statutory disqualification arising from or evidenced by a public record of any court or governmental agency. In those cases where it appears to NFA that further investigation may be necessary or appropriate to determine whether an applicant may be subject to a statutory disqualification, NFA, after having conducted any such investigation as NFA may deem appropriate for NFA to conduct, shall forward the entire registration file (or such portion as the Commission or its staff may request) to the Commission along with any information related thereto which NFA may have. NFA shall not take any final action with respect to such applicant except in accordance with written instructions from the Commission or authorized staff.

[8] 7 U.S.C. 21(o)(2) (1982).

[9] Although NFA has not been authorized to take any of the listed adverse actions with respect to a registration or an application for registration, NFA may, of course, notify an applicant or registrant of deficiencies in the application and maintain that application as pending until the applicant corrects the deficiencies to NFA's satisfaction. NFA may also, after reasonable notice to the applicant, deem an application withdrawn in the event the applicant does not, in response to such notice, either correct the deficiencies within a reasonable time or refuse to correct those deficiencies and request continued consideration of the application. In the latter event NFA shall forward the applicant's file to the Commission for its consideration and shall take no further action with respect to the application except in accordance with written instructions from the Commission or authorized staff.

Finally, the Commission notes that responsibility for pending applications and maintenance of records were addressed in the Commission's July 11, 1986 Notice and Order authorizing NFA to assure and maintain, on behalf of the Commission, a system of records regarding registered floor brokers and to serve as the official custodian of those Commission records.[10] Specifically, with respect to applications pending at the time NFA is authorized to assume such registration functions, the above Notice and Order clarifies that the Commission will continue to process and act upon all such applications.[11]

III. Conclusion and Order

The Commission has determined, in accordance with the provisions of section 8a(10) of the Act, to authorize NFA to assure, effective September 29, 1986, to process and, where appropriate, grant applications for registration with the Commission as a floor broker in accordance with the standards established by the Act and the Commission regulations thereunder and to maintain a system of records in connection with NFA's performance of these Commission registration functions.[12] These Commission determinations are based upon the Congressional intent that the Commission be allowed to authorize NFA to perform any portion of the Commission's registrtion responsibilities under the Act for purposes of carrying out these responsibilities in the most efficient and cost-effective manner, and NFA's representations concerning standards and procedures to be followed in administering these functions.

This Order does not, however, authorize NFA to accept or act upon requests for exemption or withdrawal from registration, to render "no-action" opinions or interpretations with respect to applicable registration requirements, or to grant conditional registrations or to deny or take any other adverse actions with respect to such registrations.

[10] *See* 51 FR 25928 (July 17, 1986).

[11] However, once the Commission completes the processing of each such application, the applicant's registration file will be transferred to NFA and NFA will notify the applicant and the appropriate exchange(s) that such floor broker registration has been granted.

[12] Nothing in this Order of section 17 or 8a(10) of the Act shall affect the Commission's authority to review the granting of a registration application by NFA in the performance of Commission registration functions. *See* section 17(o)(3) of the Act, 7 U.S.C. 21(o)(3) (1982).

Issued in Washington, DC, on September 23, 1986, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 86-21895 Filed 9-26-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on LHX Requirements; Advisory Committee Meetings

Summary

The Defense Science Board Task Force on LHX Requirements will meet in closed session of January 14, 1987 at the MITRE Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering of scientific and technical matters as they affect the preceived needs of the Department of Defense. At this meeting the Task Force will evaluate the Army's current requirements for the LHX helicopter.

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 this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

September 24, 1986.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-21963 Filed 9-26-86; 8:45 am]

BILLING CODE 3810-01-M

Possible Civil Access to GPS Precise Positioning Service

AGENCY: Command, Control, Communications, and Intelligence (C^3I), DOD.

ACTION: Notice of possible civil access to GPS precise positioning service.

SUMMARY: The Department of Defense (DOD) is developing a satellite-based positioning and navigation system known as the Global Positioning System (GPS). The system is designed to provide, to properly equipped users, two classes of service on a worldwide basis: A Precise Positioning Service (PPS) for use by U.S. military forces and their allies, and by official U.S. civil government users; and a Standard Positioning Service (SPS) for worldwide

non-government civil use. SPS will be available on a no-fee basis to any user and will provide an accuracy of 100 meters [2 distance root mean square (2 DRMS)].

Although GPS–PPS is designed for, and will primarily be used by, U.S. and allied military forces, the Secretary of Defense has established a policy that GPS–PPS may be made available to selected non-U.S. Government civil users. Selected civil users may be granted access to GPS–PPS provided:

- It is in the U.S national interest to do so;
- There is full compliance with appropriate security requirements; and
- Similar service is not available from other sources.

The Assistant Secretary of Defense (Command, Control, Communications), with the advice of other U.S. Government officials will determine when an applicant has satisfied the above criteria.

The DOD is in the process of determining the feasibility and desirability of this concept. Specific procedures for applying for service and the means and methods that will be used to provide GPS–PPS service are now in the conceptual stage and will not be finalized until GPS is fully operational. The necessity to satisfy security requirements will be a major factor in the eventual practicality of providing GPS–PPS to non-government civil users. Current receiver sets, designed for military use, will be classified Confidential when the cryptographic key is inserted. Therefore, a U.S. Government agent would have to maintain control of the GPS receiver at all times when it contains a cryptographic key, using procedures currently prescribed for handling Confidential information and equipment.

The Department of Defense has entered into private agreements with selected corporations to develop, at no cost to the U.S. Government, a GPS–PPS Security Module. If the proposed development is successful, a receiver set designed to operate with the Security Module will be unclassified at all times, including the times when a classified cryptographic key has been inserted. This favored method of granting access to GPS–PPS may eliminate the need for a U.S. Government agent to maintain continuous control of the keyed GPS receiver. It should be noted that the cost to provide GPS–PPS to civil users will be borne by the approved user.

DOD has developed a preliminary set of procedures for the potential implementation of this policy. These procedures are available for review and comments. Copies may be obtained by writing to the Office of the Assistant Secretary of Defense (C^3I), Attention Colonel Phillip J. Baker, The Pentagon, Room 3D174, Washington, DC 20301–3040.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 24, 1986.

[FR Doc. 86–21962 Filed 9–26–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Community College of the Air Force (CCAF Board of Visitors); Meeting

The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting on October 28, 1986 at 8:00 a.m. in the Conference Room, Room 121, Building 836, located at Maxwell Air Force Base, Montgomery, Alabama.

The meeting is open to the public.

Agenda items include an update on the State of the College, Accreditation Visit Report, Faculty Credentials, Status of Air National Guard and Air Force Reserve Registrations and Graduations, Review of Two CCAF Academic Policies, and a Report on the Affiliated Schools Advisory Panel Proceedings.

For further information, contact Mr. Billy J. Parrish, (205) 293–7937, Community College of the Air Force.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–21888 Filed 9–26–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

Summary

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) title of Information Collection and Form Number if applicable; (3) abstract statement of the need for and the uses to be made of the information collected; (4) type of Respondent; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to provide the information; (7) to whom comments regarding the information collection are to be forwarded; and (8) the point of contact from whom a copy of the information proposal may be obtained.

Extension

Questionnaire Items for Corps of Engineers Data Collection for Planning Purposes.

These questionnaire items are designed to gather data essential for planning navigation, flood control, shore protection, water supply and conservation projects. Respondents include individuals affected by or using the planned projects (e.g. flood homeowners, shippers, etc).

Individuals or households, farms, businesses or other for profit small businesses or organizations.

Responses: 4,000
Burden Hours: 2,000

Addresses

Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

Supplementary Information

A copy of the information collection proposal may be obtained from Ms. Angela Petrarca, DAIM, ADI, Room 1C638, The Pentagon, Washington, DC 20310–0700, telephone (202) 694–0754.

September 24, 1986.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–21964 Filed 9–26–86; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate; ICEED Energy Conferences

AGENCY: Department of Energy (DOE).

ACTION: Notice of solicitation for a grant application.

SUMMARY: DOE announces that it is conducting negotiations with the International Research Center for Energy Economic Development (ICEED) to support the conduct of two international energy conferences. These negotiations are expected to result in the award of Grant No. DE–FG01–86IE10538 in which DOE will provide $23,000 of the total estimated cost of $136,000 for the performance period of twelve months estimated to begin September 30, 1986.

Scope of Study: The grant will provide asistance for two international conferences. The first conference, "Changing Oil and Gas Supply," will discuss such topics as: mid term and long term supply changes, viability of energy alternatives in an uncertain oil market, possible restructuring of OPEC, and the future role of non OPEC oil exporters. The second conference, "Gulf Cooperation Council," will cover such subjects as: impact of lower prices on council members' energy development polices, relationship between GCC and OPEC, and petrochemical production and GCC's comparative advantage.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Barbara Sneden, MA–453.1, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252–1076.

Edward T. Lovett,

Director, Contract Operations Divisions "B", Office of Procurement Operations.

[FR Doc. 86–22001 Filed 9–26–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

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.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S–EU–903, for the supply of 50 milligrams of uranium-236, for use in the calibration of analytical instruments and certification of analytical method reliability at the University de Clermont-Ferrand Department of Geology, France.

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.

Dated: September 24, 1986.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86–22002 Filed 9–26–86; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–C&E–86–49; OFP Case No. 62021–9325–20–24]

Order Granting to the Dexter Corp. Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting Exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to the Dexter Corporation (Dexter or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 52 MW (net, approximate) combined cycle cogeneration facility designed to produce electricity and process steam at its facility located in Windsor Locks, Connecticut. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on November 28, 1986. The public file containing a copy of the order, 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, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–076, Washington, DC 20585, Telephone (202) 252–9506

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) 252–6947

SUPPLEMENTARY INFORMATION: On July 8, 1986, Dexter petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 52 MW (net, approximate) combined cycle cogeneration facility consisting of a combustion turbine, a waste heat recovery boiler, a single-auto-extraction/condensing steam turbine, and ancillary equipment. It is expected that more than 50 percent of the net annual electric power produced by Dexter will be sold to Connecticut Light and Power Company, making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will also produce steam to be used by Dexter's adjoining paper mill.

Basis for permanent order: The permanent exemption order is based upon evidence in the record including Dexter's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural requirements: In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on July 25, 1986 (15 FR 26743), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on September 8, 1986; no comments were received and no hearing was requested.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined the Dexter Corporation has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to the Dexter Corporation, to permit the use of oil or natural gas as

the primary energy source for its proposed cogeneration facility.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on September 23, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-22003 Filed 9-26-86; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Fossil Energy; National Coal Council; Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act, and section 101-6.1015 of the Interim Rule on Advisory Committee Management, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the National Coal Council has been renewed until July 1, 1988.

The renewal of the Council has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Council will operate in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463), the Department of Energy Organization Act (Pub. L. No. 95-91), and the General Services Administration Interim Rule on Advisory Committee Management, and related requirements.

Further information regarding this advisory committee may be obtained from Gloria Decker (202) 252-8990.

Issued in Washington, DC on September 24, 1986.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 86-22000 Filed 9-26-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF86-1058-000 et al.]

Certificate Applications for Small Power Production and Congeneration Facilities Qualifying Status; PPG Industries, Inc., et al.

Comment date: Thirty days from publication in the **Federal Register,** in accordance with Standard Paragraph E at the end of this notice.

September 23, 1986.

Take notice that the following filings have been made with the Commission.

1. PPG Industries, Inc.

[Docket No. QF86-1058-000]

On September 11, 1986, PPG Industries, Inc. (Applicant), of One PPG Place, Pittsburgh, Pennsylvania 15272, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility was located in Lake Charles, Louisiana. The facility consist of four combustion turbine generating units with four waste heat recovery steam generators, and a steam turbine generating unit. Steam produced by the facility is distributed to PPG's Lake Charles plant for various process applications. The net electric power production capacity of the facility is 317 MW. The primary energy source is natural gas. Although the facility was originally installed in 1975, installation of the last two combustion turbine generating units began in June 1985.

2. South Jersey Energy Associates, A New Jersey Limited Partnership

[Docket No. QF86-1050-000]

On September 10, 1986, South Jersery Energy Associates, a New Jersey Limited Partnership (Applicant), of 87 Elm Street, Cohasset, Massachusets 02025, submitted for filing an application for certification of a facility as a qualifying cogneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitute a complete filing.

The topping-cycle cogneration facility will be located in Williamstown Junction, New Jersey and will consist of a combustion turbin generator, a heat recovery steam generator and an extraction turbine generator. The thermal energy in the form of steam will be for space heating and cooling, and for the curing of concrete castings. The net electric power production capacity will be 140 MW. The primary sources of energy will be coal and natural gas.

3. American REF-FUEL Company of Boston

[Docket No. QF86-1037-000]

On September 2, 1986, American REF-FUEL Company of Boston (Applicant), of 100 Halley Street, Boston, Massachusette 02124 submitted for filing and application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Boston, Massachusetts. The facility will consist of two (2) waterwall steam generators and one (1) turbine generator. The net electric power production capacity will be approximately 40 megawatts. The primary energy source will be biomass in the form of municipal solid waste. Natural gas and oil will be used for purposes for ignition, start-up, testing, and other uses permitted under section 3(17)(B) of the FPA. Such fossil fuel uses, however, will not exceed twenty-five (25) percent of the total energy input of the facility during any calendar year. Construction of the facility is expected to commence in or about January 1988.

4. Foster Wheeler Charleston Resource Recovery, Inc.

[Docket No. QF86-1044-000]

On September 4, 1986, Foster Wheeler Charleston Resource Recovery, Inc. (Applicant), c/o Foster Wheeler USA, 110 South Orange Avenue, Livingston, New Jersey 07039, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located in Charleston, South Carolina and consists of waterwall steam generating trains and one steam turbine generator. The net electric power production capacity will be approximately 12.2 MW. Thermal energy is the form of steam will be sold to the U.S. Navy for use as the Charleston Naval Base. The primary source of energy will be biomass in the form of municipal solid waste.

5. Hennepin Energy Resource Co., Limited Partnership

[Docket No. QF86-1038-000]

On September 12, 1986, Hennepin Energy Resource Company, Limited Partnership (Applicant), of 4520 Executive Park Drive, Montgomery, Alabama 36116-1602, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Minneapolis, Minnesota. The facility will generate

electric power by burning biomass in the form of municipal solid waste, and will consist of two waterwall furnaces and associated steam generators and a steam turbine-generator. The net electric power production capacity of the facility will be 30 MW. Installation of the facility is expected to begin in June, 1987.

6. Pennsylvania Energy Associates, a Pennsylvania Limited Partnership

[Docket No. QF86-1034-000]

On September 2, 1986, Pennsylvania Energy Associates, a Pennsylvania Limited Partnership (Applicant), of 87 Elm Street, Cohasset, Massachusetts 02025, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in York, Pennsylvania and will consist of a coal gasification facility, a gas turbine generator, a waste heat recovery boiler, and an extraction steam turbine generator. The thermal energy in the form of steam will be sold to Harley Davidson York, Inc. for heating and industrial applications. The net electric power production capacity of the facility will be 140 MW. The primary sources of energy will be coal and natural gas.

7. Spokane Energy, Inc.

[Docket No. QF86-1024-000]

On August 29, 1986, Spokane Energy, Inc. (Applicant), of 305 111th Avenue NE., Bellevue, Washington 98004, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Spokane, Washington and will consists of a gas turbine generator, a waste heat recovery boiler and an extraction steam turbine generator. The thermal energy in the form of steam will be used in lumber drying kilns operation. The net electric power production capacity of the facility will be 9,399 kW. The primary source of energy will be natural gas.

8. Ridgefield Steam Power Company, Inc.

[Docket No. QF86-1046-000]

On September 8, 1986, Ridgefield Steam Power Company, Inc. (Applicant), c/o Dillion, Bitar & Luther, 53 Maple Avenue, Morristown, New Jersey, 07960, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Ridgefield, New Jersey, on premises owned by Lowe Paper Company. The facility will consist of two combustion turbine generating units with two waste heat recovery steam generators, and a single back pressure steam turbine-generator. Steam produced by the facility will be supplied to the Lowe Paper Company's Ridgefield plant. The electric power production capacity of the facility will be 53.1 MW. The primary energy source will be natural gas. The installation of the facility will begin in January 1988.

9. Riverside Steam and Electric Company, Inc.

[Docket No. QF86-1004-000]

On August 26, 1986, Riverside Steam and Electric Company, Inc. (Applicant), c/o The Wilson Group, One Liberty Square, Boston, Massachusetts 02109 submitted for filing an application for certification of a facility as a qualifying congeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Holyoke, Massachusetts. The facility will consist of a fluidized bed boiler generating unit. Steam produced will be used for process. The net electric power production capacity of the facility will be 38 MW. The primary energy source will be coal. The installation of the facility will begin in 1987.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital 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. 86-21908 Filed 9-26-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3087-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Administration and Resources Management

Title: Report of Nonexpendable Government Property Acquired by Contractor (EPA ICR #0287). (This an extension of a currently approved ICR.)

Abstract: The Environmental Protection Agency collects information on the acquisition of nonexpendable property purchased under an Agency contract. The Agency uses the data to determine its assets and to determine its surplus property, which must be reported to the General Services Administration.

Respondents: Contractors.

Office of Pesticides and Toxic Substances

Title: Extension of Blanket Clearance for Human and Environmental Survey and Analysis Programs (EPA ICR #0786). (This is an extension of a currently approved ICR; there are no changes.)

Abstract: This is a request for an extension of the Blanket Clearance for Human and Environmental Survey and Analysis Programs to cover chemical

residue and human exposure data obtained as part of field investigations initiated in response to chemical crises.

Respondents: General public as required.

Title: Notification of Substantial Risks Under 8(e) of the Toxic Substances Control Act (TSCA) (EPA ICR #0794). (This is a renewal of a currently approved ICR; there are no changes.)

Abstract: The purpose of section 8(e), a self-implementing statutory reporting provision of TSCA, is to ensure that any new information that reasonably supports a conclusion that a TSCA-covered chemical or mixture presents a substantial risk of injury to health or the environment is brought to EPA's attention immediately upon discovery by a person who manufactures, imports, processes, or distributes such substance or mixture.

Respondents: Chemicals manufacturers, processors, distributors, and importers.

Title: Significant New Use Rules for Existing Chemicals (EPA ICR #1188). (This a renewal of an existing ICR.)

Abstract: Section 5 of the Toxic Substances Control Act provides the Environmental Protection Agency (EPA) with a regulatory mechanism to monitor and, if necessary, control significant new uses of chemical substances. Once a use is designated as a significant new use, a person must, at least ninety days prior to commencing that use, notify EPA by submitting a Premanufacture Notification Form.

Respondents: Chemical manufacturers, processors, importers.

Title: National Blood Network (EPA ICR #1201). (This is a new collection.)

Abstract: The purpose of this ICR is to identify the prevalences and levels of toxic substances in human blood to support the Office of Toxic Substances' Test Rules and Existing Chemicals Assessment programs. In addition, baseline and trend information on these compounds will be developed for the general population and for selected demographic and geographic subpopulations.

Respondents: Volunteer blood donors.

Office of Solid Waste and Emergency Response

Title: Industrial Subtitle D Facility Study (EPA ICR #1253). (This is a new collection.)

Abstract: The Environmental Protection Agency is conducting a survey of industrial establishments to identify Subtitle D facilities (landfills, surface impoundments, land application units, and waste piles), and to gather preliminary information for a report to Congress on the adequacy of the current Subtitle D criteria in protecting human health and the environment.

Respondents: Owners and operators of industrial landfills.

Title: Solid Waste (Municipal) Landfill Survey (EPA ICR #1351). (This is a new collection.)

Abstract: The Environmental Protection Agency is conducting a survey of municipal landfills to gather information on their design, operating characteristics, waste types and quantity, capacity, hydrogeologic and water source characteristics, and operating costs.

The Agency will use this information in completing a report to Congress on the adequacy of existing Subtitle D criteria.

Respondents: Owners and operators of municipal landfills.

Agency PRA Clearance Requests Completed By OMB

EPA ICR #0795, Chemical Imports and Exports; section 12(b) Notification of #Exports, was approved 8/20/86 (OMB 2070-0030; expires 8/31/89).

EPA ICR #0808, Contingency Plan for Hazardous Waste Management Facilities, was approved 9/12/86 (OMB #2050-0011; expires 4/30/89).

EPA ICR #0809, Operating Record for Hazardous Waste Management Facilities, was approved 9/12/86 (OMB #2050-003; expires 4/30/89).

EPA ICR #1064, New Source Performance Standards Subpart MM—Automobile and Light Duty Truck Surface Coating Operations, was approved 8/29/86 (OMB #2060-0034; expires 8/31/89).

EPA ICR #1302, Survey of Residential Wood Usage and Other Sources of Air Pollution, Boise, Idaho, was approved 9/9/86 (OMB #2080-0023; expires 9/30/87).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Rick Otis (ICR 0287) or Carlos Tellez (ICRs 0786, 0794, 1188, 1201, 1253, and 1351), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, DC 20503.

Dated: September 23, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-21937 Filed 9-26-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51642] (FRL-3087-8)

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-1671, 86-1672 and 86-1673—December 10, 1986.

P 86-1674, 86-1675, 86-1676, 86-1677, 86-1678, 86-1679, 86-1680, 86-1681, 86-1682 and 86-1683—December 14, 1986.

P 86-1684, 86-1685, 86-1686, 86-1687 and 86-1688—December 15, 1986.

P 86-1689, 86-1690, 86-1691, 86-1692, 86-1693, 86-1694, 86-1695, 86-1696, 86-1697, 86-1698, 86-1699 and 86-1700—December 16, 196.

Written comments by:

P86-1671, 86-1672 and 86-1673—November 10, 1986.

P 86-1674, 86-1675, 86-1676, 86-1677, 86-1678, 86-1679, 86-1680, 86-1681 86-1682 and 86-1683—November 14, 1986.

P 86-1684, 86-1685, 86-1686, 86-1687 and 86-1688—November 15, 1986.

P 86-1689, 86-1690, 86-1691, 86-1692, 86-1693, 86-1694, 86-1695, 86-1696, 86-1697, 86-1698, 86-1699 and 86-1700—November 16, 1986.

ADDRESS: Written comments, identified by the Document control number "[OPTS-51642]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmenatal Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information

extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86–1671

Manufacturer. Confidential.
Chemical. (G) Substituted benzenesulfonyl chloride.
Use/Production. (G) Site-limited chemical intermediate consumed in the preparation of a commercial product. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1672

Manufacturer. Confidential.
Chemical. (G) Substituted benzene sulfonamide.
Use/Production. (G) A component of a vehicle used in a printing ink. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1673

Manufacturer. Confidential.
Chemical. (G) Alkane dibasic acid diester.
Use/Production. (G) The end use of the PMN substance is a contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 6 workers.
Environmental Release/Disposal. Release to air with 0.1 kg/batch released to water. Disposal by state-approved water treatment system.

P 86–1674

Importer. E.I. du Pont de Nemours & Company, Inc.
Chemical. (G) Aliphatic, cycloaliphatic polyester.
Use/Import. (G) Open non-dispersive use. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 3 workers.
Environmental Release/Disposal. No release. Disposal by incineration.

P 86–1675

Importer. E.I. du Pont de Nemours & Company, Inc.
Chemical. (G) Blocked polyol-urethane.
Use/Import. (G) Open non-dispersive use. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 3 workers.
Environmental Release/Disposal. Release to land. Disposal by approved landfill.

P 86–1676

Importer. E.I. du Pont de Nemours & Company, Inc.
Chemical. (G) Aliphatic polyol-urethane.
Use/Import. (G) Open non-dispersive use. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 3 workers.
Environmental Release/Disposal. Released to land. Disposal by approved landfill.

P 86–1677

Manufacturer. E.I. du Pont de Nemours & Company, Inc.
Chemical. (G) Hydroxyl containing acrylic co-polymer.
Use/Production. (G) Open non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 4 workers.
Environmental Release/Disposal. No release. Disposal by incineration.

P 86–1678

Manufacturer. SCM Organic Chemicals.
Chemical. (S) 4-exo-hydroxy-1-metyl-4-isopropyl-7-oxabicyclo [4.1.0] heptane.
Use/Production. (G) An organic chemically active intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 12 workers, up to 2 hrs/day, up to 250 da/yr.
Environmental Release/Disposal. Less than 5 kg/batch released to air.

P 86–1679

Manufacturer. SCM Organic Chemicals.
Chemical. (S) 2-exo-hydroxy-1-methyl-4-isopropyl-7-oxabicyclo [2.2.1] heptane.
Use/Production. (G) An organic chemically active intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 12 workers, up to 2 hrs/day, up to 250 da/yr.
Environmental Release/Disposal. Less than 5 kg/batch released to air.
Manufacturer. Confidential.
Chemical. (S) Pentaerythritol tetra 2-ethylhexoate and pentaerythritol, adipic acid, 2-ethylhexoic acid ester.
Use/Production: (S) Lubricant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. Confidential.

P 86–1681

Manufacturer. Fritzche Dodge and Olcott—A unit of BASF K&F Corp.
Chemical. (S) Benzene, 1-(1-ethoxyethoxy)-2-methoxy-4-(1-propenyl)
Use/Production: (S) Consumer, as a component of fragrance compounds which may find end use in household chemicals such as dishwashing and laundry detergents, air freshners etc. Prod. range: 255 to 225 kg/yr.
Toxicity Data. Irritation: Skin—Non-irritant, Eye—Non-irritant; Skin sensitization: Non-sensitizer.
Exposure. Manufacture: Dermal and inhalation, a total of 16 workers.
Environmental Release/Disposal. Less than 0.5 kg/day released to water and air. Disposal by wastewater treatment plant on site.

P 86–1682

Manufacturer. Confidential.
Chemical. (G) Alkyd resin prepolymer.
Use/Production: (G) Modified for alkyd resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1683

Manufacturer. ScanRoad, Inc.
Chemical. (G) Reaction product of rosin acids and resin acids with a polyamine mixture.
Use/Production: (S) Industrial emulsifier for bituminous binders. Prod. range: 150,000 to 500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal and inhalation, a total of 18 workers, up to 7 hrs/day, up to 30 days/yr.
Environmental Release/Disposal. 120 kg/batch released to air.

P 86–1684

Manufacturer. Confidential.
Chemical. (G) Fatty acid modified phthalic anhydride polyester.
Use/Production: (G) Polymeric resin for industrially applied coatings. Prod. range: 40,000 to 102,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Dermal, a total of 27

workers, up to 8 hrs/day, up to 116 da/yr.

Environmental Release/Disposal. 2 to 57 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-1685

Manufacturer. Confidential.

Chemical. (G) Styrenated acrylic.

Use/Production: (G) Dispersively used coating. Prod. range: 50,000 to 300,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 34 workers, up to 8 hrs/day, up to 49 da/yr.

Environmental Release/Disposal. 6 to 101 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-1686

Importer. DSM Resins US, Incorporated.

Chemical. (G) Saturated polyester.

Use/Import. (S) Commercial stoving enamels. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 3 workers, up to 1 hr/day.

Environmental Release/Disposal. No data submitted.

P 86-1687

Importer. Naarden International, USA.

Chemical. (S) (Z,Z)-4,7-decadienal.

Use/Import. (S) Ingredients in fragrance compounds. Import range: Confidential.

Toxicity Data. Acute oral: 5.0 mg/kg; Acute dermal: 0.5 ml; Irritation: Eye—Irritant; Skin Sensitization—Non-sensitizing Ames test: Non-mutagenic.

Exposure. Processing: Dermal, a total of 5 workers, up to 6 hrs/day up to 6 day/yr.

Environmenatl Release/Disposal. Less than 100 parts per million (ppm) released to air. Disposal by venting. P 86-1688

Manufacturer. Dow Corning Corporation.

Chemical. (G) Silicon substituted organic lactone.

Use-Production: (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5000 mg/kg; Irritation: Skin—Severe, Eye—Severe; Ames test: Non-mutagenic.

Exposure. Manufacture: Dermal, a total of 2 workers, up to 5 hr/day, up to 3 day/yr.

Environmental Release/Disposal. Less than 1 to 5 kg released. P 86-1689

Manufacturer. Confidential.

Chemical. (G) Copolymer of acrylic and methacrylic esters.

Use/Production: (S) Industrial, commercial and consumer general purpose coating and modifier for coatings, inks and adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1690

Manufacturer. Confidential.

Chemical. (G) Phenyl substituted nitrogen heterocycle.

Use/Production: (G) Chemical intermediate. Prod. range: 150 to 910 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 10 workers, up to .5 hr/day, up to 4 days/yr.

Environmental Release/Disposal. No release. Less than 48 kg/batch incinerated.

P 86-1691

Manufacturer. Confidential.

Chemical. (G) Substituted polystyrene.

Use/Production: (G) Highly controlled non-dispersive use. Prod. range: 250 to 1,500 kg/yr.

Toxicity Data. Irritation: Skin—Slight irritant; Eye—Slight irritant, Skin sensitization: Low potential.

Exposure: Manufacture: Dermal, a total of 4 workers, up to 1.0 hr/day, up to 8 days/yr.

Environmental Release/Disposal. No release. Less than 10 kg/batch incinerated.

P 86-1692

Manufacturer. Confidential.

Chemical. (G) Aryloxy substituted alkyl acrylate.

Use/Production: (G) Contained use in an article. Prod. range: 150 to 2,700 kg/yr.

Toxicity Data. No data submitted on PMN substance submitted.

Exposure. Manufacture: Dermal, a total of 17 workers, up to .6 hr/day, up to 24 days/yr.

Environmental Release/Disposal. No release. Less than 2 to 25 kg/batch incinerated.

P 86-1693

Manufacturer. Confidential.

Chemical. (G) Phenyl substituted nitrogen heterocycle.

Use/Production: (G) Site-limited chemical intermediate. Prod. range: 220 to 1,350 kg/yr.

Toxicity Data. No data submitted on the PMN substance.

Exposure. Manufacture: Dermal, a total of 10 workers, up to .6 hr/day, up to 6 days/yr.

Environmental Release/Disposal. No release. Less than 8 to 13 kg/batch incinerated.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1694

Manufacturer. Confidential.

Chemical. (G) Cyanine dye derived from nitrogen heterocycles.

Use/Production: (G) Non-dispersive use in a commercial article. Prod. range: 250 to 1,600 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 9 workers, up to 1.5 hr/day, up to 8 days/yr.

Environmental Release/Disposal. No release. Less than 5 kg/batch incinerated.

P 84-1695

Manufacturer. Confidential.

Chemical. (G) Perfluorosulfonate salt; perfluorosulfonic acid salt; and perfluoroalkanesulfonic acid salt.

Use/Production: (G) Hydraulic fluid additive. Prod. range: Confidential.

Toxicity Date. Acute oral: Male—2.9 g/kg. Female—2.4 g/kg: Acute dermal: >5 g/kg: Irritation: Skin—Severe, Eye—Moderate; Ames test: Non-mutagenic; Skin sensitization: Non-sensitizer.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. Confidential.

P 86-1696

Manufacturer. Confidential.

Chemical. (G) Anhydride copolymer-methacrylate half ester.

Use/Production: (S) Industrial electronic photoresist and electronic solder mask. Prod. range: Confidential.

Toxicity Data. Irritation: Eye—Non-irritant.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86-1697

Manufacturer. The Dow Chemical Company.

Chemical. (G) Surface fluorinated, partially carbonized carbon fiber.

Use/Production: (G) Electromagnetic shielding. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 16 workers.

Environmental Release/Disposal. Disposal by landfill, navigable waterway, and on-site waste treatment plant.

P 86-1698

Manufacturer. The Dow Chemical Company.

Chemical. (G) Partially carbonated carbon fiber.

Use/Production: (G) Intermediate and high performance polymer. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 24 workers.

Environmental Release/Disposal. Less than 1 to 2 kg/day released to land. Disposal by incineration and landfill.

P 86-1699

Manufacturer. The Dow Chemical Company.

Chemical. (G) Fully carbonized, carbon fiber.

Use/Production: (G) High performance polymer. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 16 workers.

Environmental Release/Disposal. Less than 1 to 2 kg/day released to land and air. Disposal by landfill.

P 86-1700

Manufacturer. The Dow Chemical Company.

Chemical. (G) Brominated vinylic aromatic hydrocarbon.

Use/Production: (G) Fire retardant additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. Release to water and air. Disposal by incineration and navigable waterway.

Dated: September 19, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-21939 Filed 9-26-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59786 (FRL-3087-7)]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of seven such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86-245—October 2, 1986.

Y 86-246, 86-247, 86-248, and 86-249—October 5, 1986.

Y 86-250—October 6, 1986.

Y 86-251—October 8, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Frid;ay, excluding legal holidays.

Y 86-245

Manufacturer. Confidential.

Chemical. (G) Polyester of carbomonocyclic acid, alkylene glycol, and cycloalkylene glycol.

Use/Production: (S) Industrial formed article. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-246

Manufacturer. Confidential.

Chemical. (G) Acrylamide copolymer, sodium salt.

Use/Production. (G) Water treatment. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-247

Manufacturer. Confidential.

Chemical. (G) Acrylamide copolymer, potassium salt.

Use/Production. (G) Water treatment. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-248

Manufacturer. Confidential.

Chemical. (G) Acrylamide copolymer, mixed potassium sodium salt.

Use/Production. (G) Water treatment. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-249

Manufacturer. Confidential.

Chemical. (G) Acrylamide copolymer.

Use/Production. (S)Industrial Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-250

Manufacturer. Minnesota, Mining and Manufacturing.

Chemical. (G) Aliphatic aromatic polyester.

Use/Production. (G) Film component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, inhalation and ocular.

Environmental Release/Disposal. No data submitted.

Y 86-251

Manufacturer. Confidential.

Chemical. (G) Solvent-thinned alkyd resin.

Use/Production. (G) Manufacture of pigmented solvent-thinned air-dry and baking enamels. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: September 19, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-21938 Filed 9-26-86; 8:45 am]

BILLING 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

September 22, 1986.

The Federal Communication Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the

Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Copies of the submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW, Suite 140, Washington, DC 20037. For further information on these submissions contact Jerry Cowden, Federal Commissions Commission, (202) 632–7513. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: None
Title: Proposed section 15.623, Cable Terminal Devices: Information to User
Action: New collection
Respondents: Manufacturers or marketers of cable television terminal devices
Estimated Annual Burden: 10 Responses; 25 Hours

OMB Number: None
Title: Proposed section 25.308, Automatic Transmitter Identification System (ATIS)
Action: New collection
Respondents: Developers of automatic transmitter identification systems not currently recognized by the Commission
Estimated Annual Burden: 2 Responses; 80 hours

OMB Number: None
Title: Part 32, Uniform System of Accounts for Telecommunications Companies
Action: New collection
Respondents: Telecommunications companies
Estimated Annual Burden: 234 Responses; 68 Recordkeepers; 2,619,173 Hours

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 86–21918 Filed 9–26–86; 8:45 am]
BILLING CODE 6712–01–M

Advisory Committee for the ITU World Administrative Radio Conference on the use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Working Group Meeting

September 19, 1986.
Working group D: Broadcasting Satellite Issues
Chairman: Edward E. Reinhart (202) 863–6598
Vice Chairman: John Clark (609) 624–3570

Date: Tuesday, September 30, 1986
Time: 1:30 P.M.
Location: Communications Satellite Corporation, 950 L'Enfant Plaza SW., Room P–185, Washington, DC 20024
Agenda:
(1) Approval of Agenda
(2) Announcements
(3) Approval of Minutes of last meeting
(4) Status Report on Working Group Activities
A. Feeder Links—John Kiebler
B. Sound Broadcasting—J. Miller
C. Interim Systems—S. Selwyn
D. HDTV—R. Gould
(5) Preparatory work for JIWP 10–11/3
(6) Other Business
(7) Date for Next Meeting
(8) Adjournment

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 86–21919 Filed 9–26–86; 8:45 am]
BILLING CODE 6712–01–M

Modesto MDS Co. et al.; Memorandum and Order

In the matter of applications of Modesto MDS Co., and Stockton Mobilephone, Inc., & A. Michael Lipper d/b/a Lipper-LaRue. For Construction Permits in the Multipoint Distribution Service for a new station on Channel 1 at Modesto, California. CC Docket No. 86–355, File No. 1576–CM–P–78, File No. 2397–CM–P–78.

Adopted: August 28, 1986.
Released: September 19, 1986.
By the Common Carrier Bureau:

1. For considersation are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Modesto, California. The applications are therefore mutually exclusivie and require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, It is Hereby Ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications Are Designated For Hearing, and a Consolidated Proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It Is Further Ordered, That Modesto MDS Company, Stockton Mobilephone, Inc. & A. Michael Lipper d/b/a/ Lipper-LaRue and the Chief of Common Carrier Bureau, Are Made Parties to this proceeding.

5. It Is Further Ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,
Chief, Domestic Facilities Division, Common Carrier Bureau.
[FR Doc. 86–21917 Filed 9–26–86; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the

[1] Consideration of these factors shall be in light of the Commission's discussion in Frank K. Spain, 77 FCC 2d 20 (1980).

Commission regarding a pending agreement.

Agreement No.: 221–010659–003.

Title: Southern Pacific/Intermodal Container Joint Powers Authority Terminal Agreement.

Parties:

Southern Pacific Transportation Company

Intermodal Container Transfer Facility Joint Powers Authority

Synopsis: The proposed amendment delineates those portions of the property needed for public street purposes and for railroad track construction and deletes certain references to storage charges found in the original agreement.

Agreement No.: 221–010660–003.

Title: Los Angeles/Intermodal Container Joint Powers Authority Terminal Agreement

Parties:

The City of Los Angeles

Intermodal Container Transfer Facility Joint Powers Authority (ICTF)

Synopsis: The proposed amendment delineates those portions of the property needed for public street purposes and adds an area needed for railroad track construction outside the general ICTF site.

Agreement No.: 224–011002.

Title: Galveston Terminal Agreement.

Parties:

The Board of Trustees of the Galveston Wharves (Port)

Galveston Oil Terminal, Inc. (GOT)

Synopsis: The proposed agreement would reestablish a previously approved arrangement between the parties whereby GOT would be permitted use of the Port's Seabee Dock for the purpose of offloading/loading cargoes of refined petroleum products. The parties have requested a shortened review period.

Agreement No.: 224–011003.

Title: Palm Beach Terminal Sublease Agreement

Parties:

Birdsall, Inc. (Birdsall)

Chemexport, Inc. (Chemex)

Synopsis: The proposed agreement would permit Birdsall, which leases property from the Port of Palm Beach, Florida, to sublet 396 square feet of office space to Chemex for an initial two year period. The Port of Palm Beach District concurs in the arrangement.

Dated: September 23, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86–21949 Filed 9–26–86; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 86–25]

Freight-Savers Shipping Co. Ltd. v. Korea Shipping Corp.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Freight-Savers Shipping Company Limited (Freight-Savers) against Korea Shipping Corporation (KSC) was served September 23, 1986. Freight-Savers alleges that KSC has violated sections 8(c) (by refusing to make available to Freight-Savers the essential terms of a service contract), 10(b)(6) (by refusing to provide cargo space for a shippers' association of which complainant is a member, despite a contract to do so, while providing cargo space for higher rated cargo), and 10(b)(12) by subjecting Freight-Savers 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 Norman D. Kline. 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 September 29, 1987, and the final decision of the Commission shall be issued by March 29, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 86–21950 Filed 9–26–86; 8:45 am]

BILLING CODE 6730–01–M

Regulations Affecting Maritime Carriers and Related Activities in Domestic Offshore Commerce; Filing of Petition To Amend Rules by Matson Navigation, Inc.

Notice is hereby given that a petition has been filed by Matson Navigation Company, Inc. (Matson), requesting the Commission to amend its rules at 46 CFR 550.5(b)(8)(xiv) to permit the publication of rates for automobiles on other than a weight or measurement basis.

Under Matson's proposal carriers would have the option of freighting automobiles on the basis of length or per unit as well as weight or measurement. According to Matson, circumstances concerning the carriage of automobiles in the domestic offshore trades have changed substantially since 1967 when the present rule was adopted. The costs of stevedoring and transporting automobiles in garage stalls, automobile frames and containers bear little relation to vehicle weight or cubes. Matson further contends that the weight or measurement basis of freighting automobiles is inefficient and burdensome from the standpoint of shipper and carrier.

In order for the Commission to make a thorough evaluation of the petition, interested persons are requested to submit views, arguments or data on the petition no later than October 27, 1986. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in an original and 15 copies. Responses shall also be served on Peter P. Wilson, Manager of Pricing, Matson Navigation Company, Inc., P.O. Box 7452, San Francisco, CA 94120.

Copies of the petition are available for examination at the Washington, DC Office of the Commission, 1100 L Street, NW, Room 11101.

Joseph C. Polking,

Secretary.

[FR Doc. 86–21951 Filed 9–26–86; 8:45 am]

BILLING CODE 6730–01–M

Survey of Shippers; Notification Request

The Federal Maritime Commission recently sent surveys to shippers throughout the United States involved in international shipping seeking their views as to the impact of the U.S. Shipping Act of 1984. The survey is being conducted as part of a five-year study mandated in section 18 of the 1984 Act. The Commission has been directed by the U.S. Congress to "collect and analyze information concerning the impact of this Act upon the international shipping industry," and to present its findings to an Advisory Commission on Conference in Ocean Shipping, to be convened five and one-half years after enactment of the Act.

The Commission would like its survey to have the widest possible distribution.

All interested shippers who have *not* received a copy of the survey, are urged to contact:

Ernest Worden, Bureau of Economic Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, Tel. (202) 523–5870.

Dated: September 24, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86–21952 Filed 9–26–86; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84C–0075]

Ethicon, Inc.; Withdrawal of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of the petition (CAP 4C0178) proposing that the color additive regulations be amended to provide for the safe use of methylene blue for coloring ophthalmic silk sutures.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 20, 1984 (49 FR 16839), FDA published a notice that it had filed a petition (CAP 4C0178) from Ethicon, Inc., Route 22, Somerville, NJ 08876, that proposed to amend the color additive regulations to provide for the safe use of methylene blue for coloring ophthalmic silk sutures. Ethicon, Inc., has now withdrawn the petition without prejudice to a future filing in accordance with § 71.6(c)(2) (21 CFR 71.6(c)(2)).

Dated: September 18, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–21892 Filed 9–26–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0036]

Fluid Systems, Division of UOP, Inc.; Filing of Food Additive Petiton

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Fluid Systems, Division of UOP, Inc., has petition proposing that the food additive regulations be amended to provide for a croos-linked polyetheramine identified as the copolymer of epichlorohydrin, 1, 2-ethanediamine and 1, 2-dichloroethane whose surface is the reaction product of this copoloymer with 2, 4-toluenediisocyanate for use as the food-contact surface of reverse osmosis membranes used in processing liquid foods.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3955) has been filed by Fluid Systems, Division of UOP, Inc., San Diego, CA 92131, proposing that § 177.2550. *Reverse osmosis membranes* (21 CFR 177.2550) be amended to provide for the safe use of a cross-linked polyetheramine identified as the copolymer of epichlorohydrin, 1, 2-ethanediamine and 1, 2-dichloroethane whose surface is the reaction product of this copolymer with 2, 4-toluenediisocyanate. This polyetheramine would be food-contract surface of reverse osmosis membranes used in processing liquid foods.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 18, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–21891 Filed 9–26–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0364]

Pfizer Central Research, Pfizer, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Pfizer Central Research, Pfizer, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of alitame in accordance with current good manufacturing practice, as a sweetening agent or flavoring in food.

FOR FURTHER INFORMATION CONTACT: Catherine J. Bailey, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20404, 202–426–8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6A3958) has been filed by Pfizer Central Research, Pfizer, Inc., 235 East 42d St., New York, NY 10017, proposing the issuance of a food additive regulation providing for the safe use of alitame, L-*alpha*-aspartyl-*N*-(2,2,2,4,4-tetramethyl-3-thietanyl)-D-alaninamide (CAS Reg. No. 80863–62–3), in accordance with current good manufacturing practice, as a sweetening agent or flavoring in food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 18, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–21890 Filed 9–26–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86D–0210]

Adulteration Involving Pesticide Residues in Food and Feed; Availability of Revised Compliance Policy Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has revised its compliance policy guide which specifies the enforcement criteria FDA will follow concerning food and feed adulterated with pesticide residues. The guide also lists current FDA action levels for pesticide residues in food and feed.

ADDRESS: Written requests for single copies of FDA's revised Compliance Policy Guide 7141.01 should be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John R. Wessel, Office of Regulatory Affairs (HFC–205), Food and Drug Administrations, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1815.

SUPPLEMENTARY INFORMATION: FDA has issued revised Compliance Policy Guide 7141.01, "Pesticide Residues in Food and Feed—Enforcement Criteria." This guide describes the different situations in which FDA will consider taking an enforcement action under section 402(a)(2) (B) and (C) of the Federal Food, Drug, and Cosmetic Act for domestic and imported raw agricultural commodities and processed food or feed found adulterated with pesticide residues. It specifies the criteria that are to be met for FDA to initiate an enforcement action in these situations. The guide also list FDA action levels that are currently in effect for pesticide residues in food and feed.

The revised guide merges and replaces previously issued Compliance Policy Guide 7120.23, "Raw Agricultural Commodities and Processed Foods Intended for Human Consumption-Adulteration Involving Pesticide Residues" and Compliance Policy Guide 7126.27, "Pesticide Residues in Animal Feeds and Feed Ingredients." FDA believes that it is more efficient and informative to have a single guide containing FDA's enforcement policy and action levels for pesticide residues in the products subject to the agency's jurisdiction. The revised guide also includes refinements in the format and in the criteria for enforcement action.

Compliance Policy Guide 7141.01 and the guides it replaces (i.e., 7120.23 and 7126.27) are on file in the Dockets Management Branch (address above). Requests for single copies of Compliance Policy Guide 7141.01 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch (address above).

Dated: August 29, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–22037 Filed 9–26–86; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Application Announcement and Proposed Funding Preference for Grants for Geriatric Education Centers

The Bureau of Health Professions, Health Resources and Services Administration, announces the acceptance of applications for Fiscal Year 1987 Grants for Geriatric Education Centers under the authority of section 788(d) of the Public Health Service Act, as amended by Pub. L. 99–129 and invites comments on the proposed funding preference as set forth below.

Grants may be awarded to support the improvement and development of areawide organizational arrangements called Geriatric Education Centers focused on strengthening and coordinating multidisciplinary training in geriatric health care involving several health professions. These centers are established to facilitate training of medical, dental, optometric, pharmacy, podiatric, nursing, and appropriate allied health and public health faculty, students, and practitioners in the diagnosis, treatment, and prevention of diseases and other health problems of the aged.

The Administration's budget request for Fiscal Year 1987 does not include funding for this program. This notice regarding applications does not reflect any change in this policy. However, should funds become available unexpectedly for this purpose, this contingency action will assure that grants can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year.

To be eligible for a Geriatric Education Center grant, the applicant must meet the requirements of a health professions school as defined by section 701(4), program for the training of physician assistants as defined in section 701(8), or a school of allied health as defined in section 701(10).

All applicants must be located in the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

Functioning within a self-defined geographic area, which may be a metropolitan area, a State or portion thereof, or an area including all or part of two or more States, a Geriatric Education Center provides the health professions educational community within the area with multidisciplinary services which:

(a) Improve the training of health professionals in geriatrics;

(b) Develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

(c) Expand and strengthen instruction in methods of such treatment;

(d) Support the training and retraining of faculty to provide such instruction;

(e) Support continuing education of health professionals and allied health professionals who provide such treatment; and

(f) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D–31), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–6880.

Additional programmatic information may be obtained from:

Geriatric Program Representative, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–101, Rockville, Maryland 20857, Telephone: (301) 443–6887.

The standard application form and specific instructions for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline date is November 28, 1986. Applications shall be considered as meeting the deadline if they are either:

1. *Received* on or before the deadline date, or

2. *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

After a peer review group composed principally of non-Federal experts makes recommendations concerning each application, the Secretary will consult with the National Advisory Council on Health Professions Education with respect to such applications. The following factors listed in 42 CFR 57.3905 will be considered, among other factors, in the review of applications.

(1) The degree to which the proposed project adequately provides for the project requirements described in 42 CFR 57.3904;

(2) The adequacy of the qualifications and experience of the staff and faculty;

(3) The administrative and managerial ability of the applicant to carry out the proposal in a cost-effective manner; and

(4) The potential of the project to continue on a self-sustaining basis.

This program is listed at 13.969 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Proposed Funding Preference: In determining the order of funding of competing applications which have been recommended for approval, it is proposed to give a funding preference to applications which satisfactorily address the program priorities listed below. All applications, however, will be reviewed and given consideration for funding.

(1) Projects which will provide training for faculty from four or more health professions, at least one of which must be allopathic or osteopathic medicine, with respect to the treatment of health problems of the elderly by multidisciplinary teams of health professionals.

(2) Projects which currently have or plan to provide for a high degree of areawide collaboration as evidenced by:

(a) Significant multidisciplinary health care educational activities;

(b) Letters of agreement or assurance, among participating entities, such as professional schools, teaching facilities and other clinical sites, professional associations, and State and local health agencies; and

(c) Organizational or other arrangements for participation by the social and behavioral science disciplines.

(3) Preference will be given to those centers that are located in, or propose to provide substantial educational services to, a primary medical care manpower shortage area(s) designated under section 332 of the Public Health Service Act.

(4) Additionally, preference will be given to applicants from institutions that demonstrate a commitment to increased minority participation in their program or show evidence of efforts to recruit minority faculty.

Interested persons are invited to submit written comments regarding this funding preference to Director, Division of Associated and Dental Health Professions, Bureau of Health Professions at the address given below.

All comments received not later than October 29, 1986, will be considered before a final funding preference for Fiscal Year 1987 is established.

Normally, the comment period would be 60 days. However, due to the need to implement any changes in the funding preference for the Fiscal Year 1987 award cycle, this comment period has been reduced to 30 days. After the close of the comment period, the final funding preference will be published as a notice in the **Federal Register.**

Written comments should be addressed to:

Director, Division of Associated and Dental Health Professions,
Bureau of Health Professions,
Health Resources and Services Administration,
5600 Fishers Lane, Room 8-101,
Rockville, Maryland 20857,
Telephone: (301) 443-6853

All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

In determining projects to be funded from among applicants recommended for approval, including those assigned a funding preference, the Secretary, after consultation with the National Advisory Council on Health Professions Education, may give consideration to the geographic location of the project in relation to other Geriatric Education Centers funded or to be funded by this grant program, and to regional and areawide needs.

Dated: September 23, 1986.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 86-21941 Filed 9-26-86; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-86-1638]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Schedule of Buydown Escrow Accounts
Office: Government National Mortgage Association
Form Number: HUD-11744
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit and Small Businesses or Organizations
Estimated Burden Hours: 100
Status: Extension
Contact: Patricia Gifford, HUD, (202) 755-5500; Robert Fishman, OMB, (202) 395-6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 26, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Personal Financial and Credit Statement
Office: Housing
Form Number: HUD–92417
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, Businesses or Other For-Profit, and Non-Profit Institutions
Estimated Burden Hours: 64,000
Status: Extension
Contact: Kerry J. Mulholland, HUD, (202) 426–0283; Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 26, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Approval of Advance of Escrow Funds
Office: Housing
Form Number: HUD–92426
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit and Non-Profit Institutions
Estimated Burden Hours: 18,000
Status: Extension
Contact: Kerry J. Mulholland, HUD, (202) 426–0283; Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 26, 1986.

G. Brooks Dickerson,

Acting Director, Office of Information Policies and Systems.

[FR Doc. 86–21992 Filed 9–26–86; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–86–1641]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency officials familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Claim for Loss
Office: Administration
Form Number: HUD–637–A
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 10,000
Status: Revision
Contact: James E. Talbert, HUD, (202) 755–5640, Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 42 U.S.C. 3535(d).

Dated: August 19, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Approval as a 223(f) Coinsuring Lender—Category A Documentation
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 3,000
Status: Extension
Contact: James L. Hamernick, HUD, (202) 755–6500, Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 19, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Project Applications and Review of Applications; Closing Documents 223(f)—Category B anc C Documentation
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 40,000
Status: Extension
Contact: James L. Hamernick, HUD, (202) 755–6500, Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 19, 1986.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary.

[FR Doc. 86–21991 Filed 9–26–86; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–86–1639; FR–2288]

Interstate Land Sales Registration Division; Issuance of Orders of Suspension to Delegated Developers

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Lender Activities and Land Sales Registration, Interstate Land Sales Registration Division, HUD.

ACTION: Order of suspension.

SUMMARY: The Department is issuing an Order of Suspension applicable to each

Developer listed in the attached Appendix. Each listed Developer has failed to file amendments to its registration, or to file documents establishing that no amendment is necessary.

This order of Suspension is issued under the Interstate Land Sales Full Disclosure Act.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Branch Chief, Land Sales Enforcement Branch, Interstate Land Sales Registration Division, Department of Housing and Urban Development, Room 6278, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-0502. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The HUD Interstate Land Sales Registration Division gives public notice of its attempt to serve upon the listed Developers at their last known address a notice requiring that each Developer make revisions to its Statement of Record. Although service of notice by certified mail was attempted in accordance with 24 CFR 1720.170, the notice was undeliverable. Consequently, on July 28, 1986 the Department of Housing and Urban Development, in accordance with 44 U.S.C. 1508, published in the **Federal Register** a Notice of Proceedings and Opportunity for Hearing (51 FR 26949) effecting constructive notice on the listed Developer respondents. The Notice informed these Developers of omissions, in their Statement of Record and Property Reports, of material provisions required by law, and advised each Developer of its rights to request a hearing within 15 days of publication of the Notice. More than 15 days have elapsed since the publication of the Notice, and the entities listed in the attached Appendix and referred to in the Other of Suspension as "Developer" have not requested a hearing; therefore, the Department is issuing this Order of Suspension.

Order of Suspension

1. Each Developer listed in the Appendix is subject to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701–1720) and to HUD regulations promulgated under 15 U.S.C. 1718. Each Developer has filed for its subdivision a Statement of Record and Property Report which became effective in accordance with 24 CFR 1710.21. The Statement remains in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Secretary or the Secretary's designee.

3. Under 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it appears to the Secretary or the Secretary's designee at the time that a Statement of Record includes any untrue statement of a material fact, or omits to state any material fact required to be stated or necessary to prevent the Statement of Record from being misleading, the Secretary or designee, after notice and opportunity for a hearing requested within 15 days of receipt of the notice, may issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the **Federal Register** on July 28, 1986, informing each listed Developer of information obtained by the Interstate Land Sales Registration Division indicating that the Developer's Statement of Record contained an untrue statement of a material fact or an omission of a material fact required to be stated or necessary to prevent the Statement of Record from being misleading. The Notice stated that failure to request a hearing would be treated as a default and that the allegations contained in the Notice would be taken to be true. Each listed Developer has failed to answer or to request a hearing under 24 CFR 1720.220 within 15 days of publication of HUD's Notice of Proceedings and Opportunity for Hearing.

Therefore, in accordance with 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Statement of Record filed by the Developer covering its subdivision is suspended, effective September 29, 1986. This Order of Suspension shall remain in effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Disclosure Act and HUD's implementing regulations.

Publication of this Order in the **Federal Register** constitutes constructive notice to each respondent Developer. Unless otherwise exempt, any sales or offers to sell made by a listed Developer or by its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of the Interstate Land Sales Full Disclosure Act.

Dated: September 23, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing—Deputy, Federal Housing Commissioner.

Appendix

The capitioned matters in this Appendix are listed alphabetically by subdivision in each State. The list contains the name of the subdivision, developer, representative and title, OILSR number and Land Sales Enforcement Division Docket number.

Arizona

Palm Springs #15, Palm Springs, Arizona, Inc., Sol Goldman, President; 0-01173-02-0175; M-85-082.

Arkansas

Sugar Loaf Mountain Estates, 3 F of Arkansas, Inc., Henry S. Fuller, President; 0-06005-03-206; M-85-082.

California

Salton City, Trust Number 1350 with FN Realty Services, Inc., Dennis Paul, Operating Beneficiary; C-0-06356-04-1055; M-86-034.

Idaho

Lake Cascade Ranch & Lake Cascade Forest 1 & 2, an Idaho General Partnership, Bernard L. Shalz, Partner; 0-05392-12-0085; M-85-1002.

Kentucky

Apage Shores, Woodhaven Sales Realty, Harold Moscovich, Stockholder; 0-05687-20-128; M-85-114.

Barkley Beach Estates III, Fred Beach d/b/a Barkely Beach Estates III, 0-04806-20-96; M-86-028 (Order of Suspension returned as undeliverable).

New Mexico

Tierra Grande, Sun Dutch Industries Corp., Michael Heraty, Executive Vice President; 0-06011-36-262; M-86-012.

New York

AuSable Acres, AuSable Acres, Inc., L. Paul McGreevy, President; 0-00393-37-001 & A-C; M-86-027.

Texas

Arrowhead Participation Development Corp. (Texas) Inc., Billy L. Turner, President; 0-05805-49-1085; M-85-021.

Washington

Cresent Bar Recreational Vehicle Home Park, Crescent Properties, Inc., H. Frederick Peterson, President; 0-04127-56-120 & A; M-85-085.

[FR Doc. 86-21995 Filed 9-26-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Final Environmental Impact Statement for Eastern Arizona Grazing EIS Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability fo final environmental impact statement (FEIS) for the Eastern Arizona EIS area; Safford and Phonenix districts.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a final environmental impact statement for a proposed livestock management grazing program in the Eastern Arizona EIS area, Arizona. The proposal involves intensive management of grazing on 126,581 acres of public lands. Approximately 907,000 acres would receive custodial or maintainance management and 31,000 acres would not be alloted for grazing. In addition, the proposal calls for land treatments on as much as 75,000 acres, fencing, 8 reservoirs, 9.5 miles of pipeline and two wells.

SUPPLEMENTARY INFORMATION: A limited number of copies of the EIS are available upon request to the Arizona State Director, Bureau of Land Management, 3707 N. 7th Street, Phoenix, Arizona 85011 or at Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027, or at Safford District Office, 425 East 4th Street, Safford, Arizona 85546.

Public reading copies will be available for review at the above locations.

FOR FURTHER INFORMATION CONTACT: Jerrold Coolidge, Environmental Coordinator, 425 East 4th Street, Safford, AZ 85546, Telephone (602) 428–4040.

Dated: September 18, 1986.

D. Dean Bibles,

State Director.

[FR Doc. 86–21924 Filed 9–26–86; 8:45 am]

BILLING CODE 4310–01–M

Alaska; Management Framework Plan (MFP); Proposed Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed plan amendment and proposal to designate areas of crticial environmental concern within the southwest management framework plan area.

SUMMARY: The amendment to the Management Framework Plan (MFP) proposes that lands, under the jurisidiction of the Bureau of Land Management, within one-half mile of the George River and Oskawalik River be designated as Area of Critical Environmental Concern (ACEC's). The Bureau of Land Management is proposing these ACEC's to protect valuable hunting, trapping and fishery resources used for subsistence purposes.

The ACEC designation would consist of the nonnavigable bed of the stream and a corridor one-half mile either side of the highwater mark of each river and their tributary streams. These designations include those parts of the two rivers listed in the current anadromous fish stream Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes, published by the Alaska Department of Fish and Game, Revised March 29, 1985.

These ACESs would be open to mineral leasing and mineral entry and location. The primary focus of these ACECs would be the protection of crucial fisheries habitat. All surface disturbing uses within these areas will be limited to protect this crucial habitat from siltation, or other forms of physical or chemical pollution.

The proposed ACECs are located in the townships located listed below and shown on a map available at the Anchorage District Office.

A. Oskawalik River ACEC

Tps. 17 and 18 N., R. 45 W., SM.
Tps. 17, 18 and 19 N., R. 46 W., SM.
T. 19 N., R. 47 W., SM
T. 19 N., R. 48 W., SM
T. 19 N., R. 49 W., SM
T. 19 N., R. 48 W., SM

B. George River ACEC

Tps. 23 and 27 N., R. 40 W., SM.
Tps. 23 and 27 N., R. 41 W., SM.
Tps. 21 and 27 N., R. 42 W., SM.
Tps. 20 and 27 N., R. 43 W., SM.
Tps. 22 and 27 N., R. 44 W., SM.
Tps. 23 and 27 N., R. 45 W., SM.
Tps. 23 and 27 N., R. 46 W., SM.
Tps. 23 and 27 N., R. 47 W., SM.
T. 23 N., R. 48 W., SM.

EFFECTIVE DATES: Comments on the Amendment and the proposed ACECs will be accepted at the following address for 60 days following the publication of this Notice.

ADDRESS: Maps and documentation indicating the location and decision process of these ACECs are also available at the following address: Anchorage District Office, Bureau of Land Management, 6881 Abbott Loop Road, Anchorage, Alasks 99507.

FOR FURTHER INFORMATION CONTACT: Bob Conquergood, McGrath, Resource Area Manager, Address listed above, Telephone: (907) 267–1321.

Michael J. Penfold,

State Director.

[FR Doc. 86–21887 Filed 9–24–86; 8:45 am]

BILLING CODE 4310–01–M

[ES–36098]

Realty Action Recreation and Public Purposes Classification

AGENCY: Bureau of Land Management, Interior.

ACTION: Land Classification for recreation and public purposes, blue earth, ES–36098.

SUMMARY: The following described parcel has been classified as suitable for disposal to the State of Minnesota by conveyance pursuant to the provisions of the Recreation and Public Purposes Act of 1926 (44 Stat. 741), as amended (43 U.S.C. 869):

Fifth Principal Meridian, Minnesota

1. ES–36098, Blue Earth County: T.109., R.26W., Sec. 36, Lot 8, total of 8.65 acres.

The purpose of the conveyance is the preservation of a Wildlife Management Area.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.8. In the event of noncompliance with the terms of the patent, title to the land shall revert to the United States.

Classification of this land will segregate it from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act. This segregation will terminate upon issuance of a patent, or eighteen (18) months from the date of this Notice, or upon publication of a notice of termination.

COMMENTS: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to: District Manager, Milwaukee District Office, Bureau of Land Management, P.O. Box 631, Milwaukee Wisconsin 53201–0631.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this application is available for review at the Milwaukee District Office, Suite 225, 310 W. Wisconsin Ave., Milwaukee, Wisconsin 53201, or by calling Larry Johnson at (414) 291–4413.

Bert Rodgers,

District Manager.

[FR Doc. 86–21903 Filed 9–26–86; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202–395–7313.

Title: Mourning Dove Call Count Survey
Abstract: The survey is conducted annually by Service and State biologists to assess the population status of the mourning dove. The survey data are analyzed, and the resulting assessment guides the Service in its promulgation of regulations for hunting the species.
Form Number: 3–159
Frequency: Annually
Description of Respondents: Service and State biologists
Annual Responses: 850
Annual Burden Hours: 850

Service Clearance Officer: James E. Pinkerton, telephone 202–653–7499, Room 859, Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: September 19, 1986.

Walter O. Stieglitz,

Assistant Director—Refuges and Wildlife.

[FR Doc. 85–21885 Filed 9–26–85; 8:45 am]

BILLING CODE 4310–55–M

Endangered and Threatened Species; Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–711792

Applicant: Nay Aug Park Zoo, Scranton, PA.

The applicant requests a permit to export one female Siberian tiger (*Panthera tigris altaica*) to Metropolitan Toronto Zoo, Toronto, Canada for the purposes of breeding and exhibition.

PRT–709016

Applicant: National Museum of Natural History, Washington, DC.

The applicant requests a permit to import specimens of endangered species of birds found dead in the wild or found dead in captivity world wide, for the purpose of scientific research.

PRT–711803

Applicant: Cheyenne Mountain Zoological Park, Colorado Springs, CO.

The applicant requests a permit to export one female orangutan (*Pongo pygmaeus*) to the Johannesburg Zoo, South Africa, for display, education, and for companionship of the one male orangutan at the zoo.

PRT–711805

Applicant: Chicago Zoological Society, Brookfield, IL 60513.

The applicant requests a permit to reexport one ocelot (*Felis pardalis*) to the Royal Rotterdam Zoological Gardens, Netherlands for breeding purposes.

PRT–711516

Applicant: Stephen G. Weller, Chicago, IL 60680.

The applicant requests a permit to take seeds or cuttings from 30 to 40 of the largest Diamond Head schiedea plants (*Schiedea adamantis*) found on Diamond Head Crater, Hawaii, for propagation and research at University of Illinois.

PRT–711754

Applicant: Roger Williams Park Zoo, Providence, RI 02905.

The applicant requests a permit to import 3 captive born male and 3 captive born female Parma wallabies (*Macropus parma*) from the Jersey Wildlife Trust, Jersey Island, Channel Islands, United Kingdom. These animals will be used for the sole purpose of propagation, education, and public display. They will be offered for breeding loans to accredited AAZPA zoos having adequate facilities to maintain wallabies. Humane transportation is indicated.

PRT–704409

Applicant: David Blasko, Vallejo, CA.

The applicant requests a permit to purchase in interstate commerce one female captive born Asian elephant(*Elephas maximus*) from Robert Moore, New Baltimore, MI, for the purpose of educating the public about the conservation needs of the species.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: September 24, 1986.

Earl B. Baysinger,

Chief, Federal Wildlife Permit Office.

[FR Doc. 86–21990 Filed 9–26–86; 8:45 am]

BILLING CODE 4310–55–M

Issuance of Permits for Marine Mammals

On June 26, 1986, a notice was published in the **Federal Register** (51 FR 23281) that applications had been filed with the Fish and Wildlife Service by Minamichita Beachland Aquarium (PRT–708641) for a permit to take (capture) one male and three female Alaskan sea otters (*Enhydra lutris*) and export them to Minamichita Beachland Aquarium for public display, Okhotsk Aquarium Foundation (PRT–708653) for a permit to take (capture) one male and three female Alaskan sea otters (*Enhydra lutris*) and export them to Okhotsk Aquarium Foundation for public display, and Nagasaki Biopark (PRT–708664) for a permit to take (capture) one male and three female Alaskan sea otters (*Enhydra lutris*) and export them to Nagasaki Biopark for public display.

Notice is hereby given that on September 10, 1986, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued the above permits subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: September 24, 1986.

R.K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 86–21989 Filed 9–26–86; 8:45 am]

BILLING CODE 4310–55–M

Issuance of Permits for Marine Mammals

On June 26, 1986, a notice was published in the **Federal Register** (51 FR 23281) that applications had been filed with the Fish and Wildlife Service by Kanazawa Aquarium (PRT–708659) for a

permit to take (capture) one male and three female Alaskan sea otters (*Enhydra lutris*) and export them to Kanazawa Aquarium for public display, and Kamogawa Sea World (PRT–708661) for a permit to take (capture) one male and three female Alaskan sea otters (*Enhydra lutris*) and export them to Kamogawa Sea World for public display.

Notice is hereby given that on September 6, 1986, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued the above permits subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: September 24, 1986.

R.K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 86–21988 Filed 9–26–86; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf Advisory Board, Policy Committee; Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92–463, 5 U.S.C. App. 1 and the Office of Management and Budget's Circular No. A–63, Revised. The Policy Committee of the Outer Continental Shelf (OCS) Advisory Board will meet during the period 8 a.m. to 5 p.m., October 29, 1986, and 8 a.m. to 4:45 p.m., October 30, 1986, at the OMNI International Hotel in Norfolk, Virginia (804–622–6664).

The meeting will cover the following principal subjects:

October 29

- California: Leasing Status.
- Resolution of Leasing Conflicts: Third Party Negotiations.
- Oil and Gas Present and Future Prices: Impact on OCS Leasing and Development.
- Incentives for OCS Leasing and Development: Price Controls, Extended Leases, Drilling Incentives.

October 30

- Role of States and Federal Government Agencies in Developing Offshore Minerals/Offshore Mineral Legislation.
- Interaction of Fishing and Oil and Gas Industry.

The meeting is open to the public. Upon request, interested parties may make oral or written presentations to the committee. Such requests should be made no later than October 15, 1986, to the OCS Policy Committee, Minerals Management Service, Department of the Interior, 18th & C Streets, NW., Washington, DC 20240.

Requests to make oral statements should be accompanied by a summary of the statement to be made. For more information, contact the Executive Secretary, John B. Rigg at 202–343–3530.

Minutes of the meeting will be available for public inspection and copying at the Minerals Management Service, Department of the Interior, 18th and C Street, NW., Washington, DC 20240.

Dated: September 19, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 85–21961 Filed 9–26–85; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Missouri National Recreational River Advisory Group; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Missouri National Recreational River Advisory Group will be held September 25, 1986, beginning at 10 a.m. at the Gavins Point Dam Visitor Center near Yankton, South Dakota.

The group was established on October 6, 1981, pursuant to section 707 of the National Parks and Recreation Act of 1978, 92 Stat. 3528, as amended by section 16 of the Act of September 8, 1980, 94 Stat. 1137, 16 U.S.C. section 1274(22), to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Missouri National Recreational River.

Matters to be discussed at the meeting will include a presentation and discussion of the U.S. Fish and Wildlife Service's report regarding a study of critical habitat for endangered or threatened species within the recreational river segment, and a discussion of congressional legislation to reinstate the originally authorized cost-sharing rules of the Missouri National Recreational River.

The meeting will be open to the public. Interested persons may submit written statements or request information concerning this meeting from David H. Shonk, Associate Regional Director, Cooperative Activities, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone 402–221–4855 (FTS 864–4855). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 4 weeks after the meeting.

Dated: September 18, 1986.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 86–21983 Filed 9–26–86; 8:45 am]

BILLING CODE 4310–70–M

History Committee, Statue of Liberty-Ellis Island Centennial Commission: Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a forthcoming meeting of the History Committee of the Statue of Liberty-Ellis Island Centennial Commission. The committee will review its purpose in relation to the Statue of Liberty-Ellis Island restoration project and will discuss the committee's suggestions and initiatives that will commemorate the hundredth anniversaries of the Statue of Liberty (1986) and Ellis Island (1992).

DATE: October 24, 1986, 9 a.m. to 5 p.m.

ADDRESS: The Statue of Liberty-Ellis Island Foundation, Inc., 101 Park Avenue, Suite 1205, New York, New York 10178.

FOR FURTHER INFORMATION CONTACT: Herbert S. Cables, Jr., Regional Director, National Park Service, 15 State Street, Boston, MA 02109–3572.

Dated: September 16, 1986.

Herbert S. Cables, Jr.,

Regional Director, North Atlantic Region.

[FR Doc. 86–21984 Filed 9–26–86; 8:45 am]

BILLING CODE 4310–70–M

Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Alaska Region, Interior.

ACTION: Notice of meeting.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Denali National Park Subsistence Resource Commission. The following agenda items will be discussed:

1. Call to order
2. Reading and approval of minutes
3. Subsistence use zones

4. Time limits for Cantwell residents to apply for permits
5. Review correspondence addressed to Commission
6. Update on Park plans that could affect subsistence
7. Internal Commission business (election of officers)
8. Other business
9. Adjourn

The Denali National Park Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Lands Conservation Act, Pub. L. 96–487.

DATE: The meeting will begin at 10:00 a.m. on October 10, 1986 and conclude the afternoon of October 11, 1986.

ADDRESS: Denali National Park, Headquarters Recreational Hall.

INFORMATION: Robert C. Cunningham, Superintendent, Denali National Park, P.O. Box 9, Denali Park, Alaska 99755 (907) 683–2294.

FOR FURTHER INFORMATION CONTACT: Bob Cunningham, Superintendent, Denali National Park, P.O. Box 9, McKinley Park, Alaska 99755, Phone (907) 683–2294.

SUPPLEMENTARY INFORMATION: The Denali National Park Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487.

Robert Peterson,

Acting Regional Director, Alaska Region.

[FR Doc. 86–21985 Filed 9–26–86; 8:45 am]

BILLING CODE 4310-70-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities. (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before October 29, 1986.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW, Washington, DC 20506 (202–786–0233) and Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW, Room 3208, Washington, DC 20503 (202–395–6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW, Washington, DC 20506 (202–786–0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revision
Title: General Programs: Public Humanities Projects/Guidelines and Application Instructions
Frequency of Collection: Twice a year at each deadline
Respondents: Colleges and universities, libraries, private, non-profit organizations, civic and professional groups, or branches of state or local government
Use: Collection of information provides a basis for evaluation of applications in the competitive review process
Estimated Number of Respondents: 109
Estimated Hours for Respondents to Provide Information: 8,720

Susan Metts,

Director of Administration.

[FR Doc. 86–21927 Filed 9–26–86; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–462, as amended), notice is hereby given that the following meetings of the Humanties Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

1. Date: October 15–17, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1987.

2. Date: October 23–24, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted for Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1987.

3. Date: October 24, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications in the fields of the humanities submitted to the Translations category of the Texts Programs, Division of Research Programs, for project beginning after April 1, 1987.

4. Date: October 27, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Translations category of the Texts Programs, Division of Research Programs, for projects beginning after April 1, 1987.

5. Date: October 28–29, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted for Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1987.

6. Date: October 31, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications in the fields of the humanities submitted to the Translations category of the Texts Program, Division of Research Programs, for projects beginning after April 1, 1987.

7. Date: October 27–28, 1986.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will bring together Humanities Projects in Libraries and Public Humanities Projects professionals to discuss the Endowments role in supporting training and professional development of Humanities Projects in Libraries and Public Humanities Projects, submitted to the Division of General Programs, for projects beginning after April 1, 1987.

8. Date: October 30–31, 1986.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will bring together Humanities Projects in Libraries and Public Humanities Projects professionals to discuss the

Endowments role in supporting training and professional development of Humanities Projects in Libraries and Public Humanities Projects, submitted to the Division of General Programs, for projects beginning after April 1, 1987.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9) (B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 86–21928 Filed 9–26–86; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guide is Regulatory Guide 5.65, "Vital Areas Access Controls, Protection of Physical Security Equipment, and Key and Lock Controls." This guide presents approaches that are acceptable to the NRC staff for implementing new amendments to 10 CFR Part 73 on physical protection.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 275–2020 or (202) 275–2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 19th day of September 1986.

For the Nuclear Regulatory Commission.

Denwood F. Ross,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 86–21987 Filed 9–26–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp.; Crystal River Unit No. 3 Nuclear Generating Plant; Denial of Amendment to Facility Operating License and Opportunity for Hearing

In the matter of Florida Power Corp., City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., City of Tallahassee.

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by Florida Power Corporation, et al, (the licensees) for an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Crystal River, Florida. Notice of consideration of issuance of this amendment was published in the **Federal Register** on November 21, 1984 (49 FR 45948).

The amendment, as proposed in the justification for the change by the licensees, would permit the operation of certain containment isolation valves when they would normally be required to be isolated, provided that a dedicated operator is posted to isolate the valve, if necessary. Included in the licensees' proposed change were the valves CAV–4, 5, 6 and 7. The basis for the request for change to these valves was to resolve a conflict between the environmental TS requirement (2.4.1.0) to sample steam generator chemistry and the containment isolation TS which precludes opening the subject valves. With the implementation of the Radiological Effluent Technical Specifications (RETS), the requirements of 2.4.1.0 no longer exists. Thus, the Commission has determined the basis for change is no longer valid.

Also, the Commission has determined that valves LRV–70, 71, 72 and 73 should not be opened under administrative control. The system proposed by the licensees (for containment purging during normal plant operations) does not meet the requirements of NUREG–0737, II.E.4.2, and its Attachment 1.

All other provisions of the amendment request have been approved by Amendment No. 91 dated September 16, 1986. Notice of Issuance of Amendment No. 91 will be published in the Commission's biweekly **Federal Register** notice.

The licensees were notified of the Commission's denial of the proposed Technical Specification changes by letter dated September 16, 1986.

By October 29, 1986, the licensees may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW, Washington, DC, by the above date.

A copy of any petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington,

DC 20555, and to R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733, attorney for the licensees.

For further details with respect to this action, see (1) the application for amendment dated April 23, 1984, (2) the Commission's letter to Florida Power Corporation dated September 16, and (3) the Commission's Safety Evaluation issued with Amendment No. 91 to DPR-72 dated September 16, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Crystal River Public Library, 668 NW First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Director, Division of PWR Licensing-B.

Dated at Bethesda, Maryland, this 16th day of September 1986.

For the Nuclear Regulatory Commission.

Gordon E. Edison,

Acting Director, PWR Project Directorate #6, Division of PWR Licensing-B.

[FR Doc. 86-21986 Filed 9-26-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142

Upon Written Request Copy Available from: Securities and Exchange Commission Office of Consumer Affairs Washington, DC 20549

Revision

Rule 15b6-1(a) Form BDW

No. 270-17

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), that the Securities and Exchange Commission has submitted for public comment proposed amendments to Form BDW (17 CFR 249.501) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) which requires the filing of a Form BDW when a registered broker or dealer proposes to withdraw its registration. The proposed revisions are intended to reduce the regulatory burden upon broker-dealers by simplifying the form by clarifying the information that must be disclosed on the attachments to the form.

Submit comments to OMB Desk Officer: Ms. Sheri Fox (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503

Jonathan G. Katz,

Secretary.

September 23, 1986.

[FR Doc. 86-21943 Filed 9-26-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23627; File No. SR-PHLX-86-28]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Arbitration

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 27, 1986 the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") proposes to amend Rule 950 as set forth below. Italics indicate material proposed to be added; brackets indicate material proposed to be deleted.

Arbitration

Rule 950

Sec. 1. Matters Subject to Arbitration.

(a) Any dispute, claim or controversy between a *public customer*, or [non-member] *an equitable titleholder of an Exchange membership or participation,*[1] and a member, member organization and/or associated person arising in connection with the securities business of such member, member organization and/or associated person in connection with his activities as an associated person shall be arbitrated under the By-Laws and Rules of the Philadelphia Stock Exchange, Inc. as provided by any duly executed and enforceable written agreement which is in accordance with section 29 of the Securities Exchange Act and section 14 of the Securities Act of 1933, or upon the demand of the customer, or [non-member] *the equitable title holder of an Exchange membership or participation.*

(b) No change.

Commentary .01, .02, & .03: No change.

Sec. 2. Simplified Arbitration for Public Customers *or Equitable Titleholders of an Exchange Membership or Participation*

(a) Any dispute, claim or controversy[,] arising between a public customer[(s)], *or an equitable titleholder of an Exchange membership or participation,* and an associated person, member, or member organization, required to be arbitrated under the By-laws and Rules of the Philadelphia Stock Exchange, Inc., involving a dollar amount not exceeding $5,000, exclusive of attendant costs and interest, shall upon demand of the customer[(s)], *or the equitable titleholder of an Exchange membership or participation,* or by written consent of the parties be arbitrated as hereinafter provided.

(b)-(1) No change.

Sec. 3-Sec. 7 No change.

Sec. 8. Designation of Number of Arbitrators.

(a) *Public Controversies.*

(1) Except as otherwise provided in this Rule, in all arbitration matters involving public customers, *or equitable titleholders of an Exchange membership or participation,* and where the matter in controversy does not exceed the amount of $100,000, or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint an arbitration panel which shall consist of no less than three (3) nor more than five (5) arbitrators, at least a majority of whom shall not be from the securities industry unless the public customer, *or equitable titleholder of an Exchange membership or participation,* requests a panel consisting of at least a majority from the securities industry.

(2) In all arbitration matters involving public customers, *or equitable titleholders of an Exchange membership or participation,* where the amount in controversy is $100,000 or more, the

[1] The term "equitable titleholder of an Exchange participation" means a person, or business entity, that has purchased a foreign currency options participation on the Exchange. Legal titleholders of such participations, like legal titleholders of Exchange memberships, may initiate claims in arbitration under applicable Exchange rules and by-laws regarding *member* v. *member* controversies. *See,* letter from Douglas Block, Vice President of Phlx to Ervin Jones, attorney, Securities and Exchange Commission dated September 15, 1986, which amends the rule change so that it defines the term "equitable titleholder of an Exchange participation."

Director of Arbitration shall appoint an arbitration panel which shall consist of five (5) arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer, *or equitable titleholder of an Exchange membership or participation,* requests a panel consisting of at least a majority from the securities industry.

(b) No change.

Sec. 9–Sec. 31—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The Exchange proposes this rule change in order to clarify that not only public customers, but also equitable titleholders of Exchange memberships or participations, may initiate arbitration claims through the Exchange's arbitration facilities. Under Exchange rules and by-laws, *equitable* titleholders of Exchange memberships or participations are not deemed "members" of the Exchange; rather, *legal* titleholders are deemed members. Therefore, these equitable titleholders do not qualify for initiating "member vs. member" arbitration claims under applicable Exchange rules and by-laws.

The Exchange, however, wishes to provide a forum in which its equitable titleholders, as well as public customers, may initiate arbitration claims against Exchange members, member organizations and/or associated persons consistent with the other provisions of this rule. It is for this reason that the Exchange now proposes to state explicitly what was meant by "non-member" as this rule was previously worded. The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act in that it would promote just and equitable principles of trade and, in general, protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commissions's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 20, 1986.

Dated: September 19, 1986.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–21944 Filed 9–26–86; 8:45 am]

BILLING CODE 8010–01

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by Boston Stock Exchange, Incorporated

September 23, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Entertainment Marketing, Inc.
Common Stock, $.01 Par Value (File No. 7–9230)

Lionel Corporation
Common Stock, $.10 Par Value (File No. 7–9231)

Pall Corporation
Common Stock, $.25 Par Value (File No. 7–9232)

Philippine Long Distance Telephone Co.
Common Stock, $5.00 Par Value (File No. 7–9233)

Unicorp American Corporation
Common Stock, $.01 Par Value (File No. 7–9234)

Unimar Company
Indonesian Participating Units, No Par Value (File No. 7–9235)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 15, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-21979 Filed 9-26-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by Midwest Stock Exchange, Inc.

September 23, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Global Growth & Income Fund, Inc.
Capital Shares, $1.00 Par Value (File No. 7-9236)
Rykoff-Sexton, Inc.
Common Stock, $.10 Par Value (File No. 7-9237)
Computer Associates International Inc.
Common Stock, $.10 Par Value (File No. 7-9238)
King World Products, Inc.
Common Stock, $.01 Par Value (File No. 7-9239)
Rayonier Tiberlands L.P.
Class A Depository Units, No Par Value (File No. 7-9240)
Comdata Network, Inc.
Common Stock, $.02 Par Value (File No. 7-9241)
Thor Industries, Inc.
Common Stock, $0.10 Par Value (File No. 7-9242)
LTV Corp.
$1.25 Cumulative Convertible Preferred Stock (File No. 7-9243)
Unit Corporation
Common Stock, $.20 Par Value (File No. 7-9244)
Anadarko Petroleum Corporation
Common Stock, $1.00 Par Value (File No. 7-9245)
Burroughs Corporation
Series A Cumulative Convertible Preferred Stock (File No. 7-9246)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 15, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted tradiing privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-21980 Filed 9-26-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by Philadelphia Stock Exchange, Inc.

September 23, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Whittaker Corporation (Delaware)
Common Stock, $1.00 Par Valve (File No. 7-9247)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 15, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-21982 Filed 9-26-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by Philadelphia Stock Exchange, Inc.

September 23, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Mesa Limited Partnership
Preference A Units (File No. 7-9229)

This Security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 15, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-21981 Filed 9-26-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15322; File No. 812-6428]

Application and Opportunity for Hearing; National Home Life Assurance Co. et al.

September 22, 1986.

Notice is hereby given that National Home Life Assurance Company ("Company"), a Missouri stock life insurance company with offices at 20 Moores Road, Frazer, Pennsylvania 19355; National Home Life Assurance Company Separate Account II ("Account"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust; and CHC Securities Corporation, the Principal underwriter of the flexible premium multi-funded combination variable/fixed annuity contracts

("contracts") offered through the Account (collectively, "Applicants"), filed an application on July 3, and an amendment thereto on September 15, 1986, requesting an order pursuant to section 6(c) of the Act, exempting Applicants from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the transactions described in the application. All interested persons are referred to the application on file with Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for the text of the relevant provisions.

The Company was incorporated under the laws of the State of Missouri on August 6, 1920 and is directly and indirectly wholly owned by Capital Holding Corporation. The Account was established under the laws of the State of Missouri on February 3, 1986, in connection with the proposed issuance of the contracts, which are designed to permit the contractowner to accumulate funds on a tax-deferred basis and to receive annuity payments when desired based on the investment experience of the assets underlying the contract. The contract may be purchased on a non-tax qualified basis or may be purchased with the proceeds from certain plans qualifying for favorable federal income tax treatment.

Applicants state that the Account will invest exclusively in the Variable Insurance Products Fund ("Fund"), and currently has four sub-accounts, each of which invests solely in a corresponding portfolio of the Fund. The Fund, a diversified, open-end management investment company organized as a Massachusetts business trust on November 13, 1981, has four portfolios: the Equity income Portfolio, the Growth Portfolio, the Money Market Portfolio, and the High Income Portfolio. Purchase Payments made under a contract will be allocated, as directed by the contractowner, to one or more of the subaccounts of the Account and/or to the Company's fixed account.

Applicants state that an asset charge is made against the Account to reimburse the Company for certain mortality and expense risks assumed under the contracts, and for the costs of administering the contracts. Applicants represent that the mortality risk, assuming the selection of one of the forms of life annuities, is to make monthly annuity payments* regardless of how long all annuitants may live; and that the expense risk is that the deductions for surrender charges, administration costs and transfer charges under the contracts may be insufficient to cover the actual future cost incurred by the Company.

Applicants state administrative costs include the expenses of collecting, processing and confirming purchase payments, and establishing and maintaining the available methods of payment. The entire asset charge will be deducted from the accumulated value of each contract daily in an amount equal to an effective annual rate of 1.50 percent. Applicants state that the rate of this charge is guaranteed never to increase. Approximately .80 percent is charged for mortality risks, approximately .40 percent for expense risks, and .30 percent for administrative costs.

Applicants state that contractowner may transfer accumulated value among the sub-accounts or the fixed account without charge for the first twelve transfers during each year. Applicants state that after the first twelve transfers, a charge of $10 per transfer will be deducted from accumulated value to reimburse the Company only for its actual expenses associated with effecting such transfers. Applicants represent that the Company does not intend to profit from this charge, and the charge is guaranteed not to increase.

Applicants state that a sales charge is not imposed at the time a purchase payment is made under the contract, but rather a surrender charge is imposed on certain partial and full surrenders to cover certain expenses relating to the sale of the contracts. Applicants represent the maximum surrender charge is 6 percent of the accumulated value surrendered, and that in no event will total surrender charges exceed 6 percent of the purchase payments. Applicants further represent that in a partial surrender, the surrender charge is deducted from the accumulated value, and that in a full surrender, the surrender charge reduces the amount payable to the contractowner. Applicants assert no surrender charge is imposed upon distributions made on account of the death of the annuitant; no surrender charge is assessed against a surrender of purchase payments made more than six contract years prior to the date of the written request and which were not previously withdrawn; and no surrender charge is applied during the first six contract years against: (a) That portion of one partial or full surrender per year, equal to or less than the accumulated value minus the sum of purchase payments not previously withdrawn, net of surrender charges previously applied, or (b) any portion of any partial or full surrender after the first six contract years equal to or less than the accumulated value less the sum of purchase payments not previously withdrawn, net of surrender charges previously applied. Applicants acknowledge that the surrender charge may be insufficient to cover all distribution expenses, but that any deficiency will be met from the Company's general corporate funds, which may include amounts derived from the mortality and expense risk charge.

Applicants request exemption from the provisions of sections 26(a)(2)(C) and 27(c)(2) to permit the assessment of an asset charge of 1.20 percent for mortality and expense risks. Applicants submit the mortality and expense risk charge is a reasonable charge to compensate the Company for the risk that annuitants under the contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the contracts; for the risk that admnistrative expenses will be greater than the amounts derived from the administration charges; and for the risk that the amounts realized from the surrender charge will be insufficient to cover actual distribution expenses.

The Company represents the charge of 1.20 percent for mortality and expense risks is within the range of industry practice with respect to comparable annuity products; this representation is based upon an analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, existence of charge level guarantees, and guaranteed annuity rates.The Company represents that it will maintain a memorandum at its administrative offices, and available to the Commission, that sets forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey. The Company also represents there is a reasonable likelihood that the proposed distribution financing arrangement (*i.e.*, the assessment of a surrender charge in an amount which may not be sufficient to meet distribution expenses and the use of general corporation funds, including amounts derived from the mortality and expense risk charge, to pay any distribution expenses in excess of the amounts derived from the surrender charge) will benefit the Account and

*The annuity tables contained in the contract, other than the option for payment for a designated period, are based on the 1971 Individual Annuity Mortality Table assuming births prior to 1916 and an interest rate of 4% per year.

contractowners, and that a memorandum, setting forth the basis for this representation, will be maintained by the Company at its administrative officers and will be available to the Commission. The Company also represents the Account will only invest in management investment companies which undertake, in the event they adopt a plan under Rule 12b–1 to finance distribution expenses, to have a board of directors, a majority of whom are not interested persons, formulate and approve any plan under Rule 12b–1 to finance distribution expenses. Applicants assert the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application, not later than October 17, 1986 at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed to: Secretary, Securities Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon the Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the Application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–21945 Filed 9–26–86; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2251]

Declaration of Disaster Area; Michigan

As a result of the President's major disaster declaration on September 18, 1986, I find that the Counties of Bay, Gratiot, Huron, Ionia, Isabella, Kent, Lake, Mason, Mecosta, Midland, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Saginaw, Sanilac, Tuscola and the adjacent Counties of Clare, Clinton, Gladwin and Ottawa constitute a disaster loan area because of severe storms and flooding beginning on or about September 10, 1986. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on November 17, 1986, and for economic injury until the close of business on June 18, 1987, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Building, 75 Spring Street, SW, Suite 822, Atlanta, Georgia 30303.

or other locally announced locations.

The filing periods specified above are subject to the availability of appropriated funds on and after October 1, 1986.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	7.500
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 225106 for physical damage and for economic injury the number is 644400.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: September 23, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–21909 Filed 9–26–86; 8:45 am]

BILLING CODE 8025–01–M

National Small Business Development Center Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Thursday and Friday, November 13 and 14, 1986, from 9:00 a.m. to 5:00 p.m. (Thursday) and 9:00 a.m. to 1:00 p.m. (Friday). The meeting will be held in the Administrator's conference room at the U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416. The purpose of the meeting is to discuss such matters as may be presented by Advisory Board Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Freddie Collins, SBA Member, Room 317, U.S. Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416; telephone number (202) 653–6768.

Jean M. Nowak,

Director Office of Advisory Councils.

[FR Doc. 86–21911 Filed 9–26–86; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2252]

Declaration of Disaster Loan Area; Rhode Island

Providence County in the State of Rhode Island constitutes a disaster area because of a tornado and heavy rain which occurred on August 7 and 8, 1986. Applications for loans for physical damage may be filed until the close of business on November 20, 1986, and for economic injury until the close of business on June 19, 1987, at the address listed below: Disaster Area 1 Office, Small Business Administration, 15–01 Broadway, Fair Lawn, New Jersey 07410.

or other locally announced locations.

The filing periods specified above are subject to the availability of appropriated funds on and after October 1, 1986.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious oranizations)	10.500

The number assigned to this disaster is 225212 for physical damage and for economic injury the number is 644500.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: September 19, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86–21910 Filed 9–26–86; 8:45 am]

BILLING CODE 8025–01–M

Region VII Advisory Council Meeting; Missouri

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of St. Louis and Eastern Missouri, will hold a public meeting at 10:30 a.m. on Wednesday, October 22, 1986 at the St.

Louis District Office of the Small Business Administration, 815 Olive Street, Room 240, St. Louis, Missouri 63101, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive St., Room 242, St. Louis, Missouri 63101—(314) 425–6600.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 18, 1986.

[FR Doc. 86–21905 Filed 9–26–86; 8:45 am]

BILLING CODE 8025–01–M

Region II Advisory Council Meeting; Puerto Rico

The Small Business Administration Region II Advisory Council, located in the geographical area of Hato Rey, Puerto Rico, will hold a public meeting at 9:00 a.m., on Tuesday, October 7, 1986, at Room G–51, Federal Building, Carlos Chardón Avenue, Hato Rey, Puerto Rico, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call Wilfred, Beñitez Robles, District Director, Small Business Administration, Federal Building, Room 691, Carlos Chardón Avenue, Hato Rey, Puerto Rico 00918—(809) 753–4003.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 18, 1986.

[FR Doc. 86–21907 Filed 9–26–86; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting; Tennessee

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Nashville, will hold a public meeting at 9:00 a.m. on Wednesday, October 8, 1986, at American National Bank and Trust Company, 736 Market Street, Cattanooga, Tennessee 37402, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For information, write or call Robert M. Hartman, District Director, U.S. Small Business Administration, Suite 1012 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37219–(615) 736–5850.

Jean M. Nowak,

Director Office of Advisory Councils.

September 18, 1986.

[FR Doc. 86–21906 Filed 9–26–86; 8:45am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 44369; Order 86–9–61]

Aviation Proceedings; Exemption of Persons Who Contract for the Purchase of Blocks of Seats on Scheduled Service Pursuant to Applicable Tariffs for Resale to the Public; Order to Show Cause

Issued by the Department of Transportation on the 22nd day of September, 1986.

By Order 81–7–109 (46 FR 38657, July 28, 1981), the Civil Aeronautics Board exempted persons who contract for blocks of seats with direct air carriers or foreign air carriers from the requirements of sections 401, 402 and 403 of the Federal Aviation Act, as amended (the Act) and of Part 221 of the Board's regulations, to the extent necessary to allow such contractors to resell the seats without filing tariffs or themselves having a certificate of public convenience and necessity or a foreign air carrier permit, as applicable.[1] This exemption for bulk contract fare marketers was and is subject to the following conditions:

1. (a) The direct air carrier or foreign air carrier implementing marketing programs in foreign air transportation under this exemption shall file tariffs that state the prices to be charged to contractors for such transportation.[2]

(b) The direct carriers or foreign air carriers implementing marketing programs under this exemption shall file tariff rules that clearly describe the relationship existing between the carrier and the passenger. These rules shall establish that upon payment by passengers, the direct carriers bear the responsibility for safeguarding the passengers' money (i.e., either refunding it or providing the transportation for which the money was paid) in the event of insolvency or malfeasance of the contractors.

(c) The direct air carriers or foreign air carriers implementing contract marketing programs and all contractors operating under this blanket exemption authority shall insure that consumers receive clear and conspicuous notice, before payment of deposit, of any special contractual conditions, imposed either by the contractor or by the carrier, applicable to passengers, including, but not limited to the following: The terms and amount of any cancellation penalties, fees for reservations changes, or other special charges; limits on voluntary refund (specifically, notice that clearly informs passengers of their risks in the event of voluntary cancellation by stating the exact amount of the applicable refund for voluntary cancellation); limits on involuntary refund, rerouting or ticket reissuance rights; limits on ticket endorsability or special ticket purchase; check-in or reconfirmation requirements; if true, the fact that the passenger may be assessed price increases after ticket purchase; if true, the fact that flight dates and times are not guaranteed at time of purchase; and information on the allocation of responsibility between the contractor and carrier for the passengers' funds and transportation; and

(d) The direct air carriers and foreign air carriers implementing contract marketing programs shall file with the Department the name and address of each contractor operating under this exemption within 30 days after first entering into the contractual arrangement.

The condition that air carriers implementing contract marketing programs file the name and address of each contractor with the Department is no longer necessary. It was implemented as a means of protecting consumers. We have found that the other conditions of the exemption, particularly the requirements that the direct air carrier bear responsibility for passengers' money (either by providing the transportation or providing the refund) and that the consumer receive "clear and conspicuous notice" about any ticket limitations and restrictions, have proven adequate to protect consumers' interests. We have received only a handful of consumer complaints since the exemption was implemented in 1981, and have found that the filing requirements of subparagraph (d) have not been used to resolve the few complaints received.

[1] Section 403 authority terminated on January 1, 1985, to the extent its provisions related to interstate and overseas air transportion. Section 1601(a)(4)(B) of the Act. Remaining relevant authority transferred on the same date to the Department of Transportation. Pub. L. 94–443, October 4, 1984.

[2] Subparagraph 1(a) was modified through issuance of Order 82–3–132, March 24, 1982 (47 FR 14928, April 7, 1982).

We tentatively conclude that the administrative burden of complying with the filing condition of the exemption outweighs any limited benefit it may produce. Since carriers and bulk fare contractors continue to be bound by the remaining substantive exemption conditions, we tentatively conclude that consumers will be adequately protected and that it is therefore in the public interest to delete subparagraph (d).

Accordingly

1. We direct all interested parties to show cause why we should not issue a final order amending Order 81–7–109 to delete ordering paragraph (d) so that direct air carriers and foreign air carriers need no longer file the name and address of the bulk fare contractor with the Department;

2. We direct any interested parties objecting to the issuance of such an order to file such objections with the Documentary Services Division (C–55, Room 4107), U.S. Department of Transportation, 400 7th, S.W., Washington, D.C. 20590, in Docket 44369, no later than October 29, 1986. Answers to objections shall be filed not later than November 10, 1986;

3. In the event no objections are filed, an order will be entered making final our tentative conclusions and amending the exemption conditions; and

4. We will publish this order in the Federal Register.

By:

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–21819 Filed 9–26–86; 8:45 am]

BILLING CODE 4910–62–M

Privacy Act of 1974; Notice of Proposed New Systems of Records

The Department of Transportation herewith publishes a proposal to create a new System of Reords, Back to Basic Seminar Attendance Records System, DOT/FAA 849.

Any person or agency may submit written comments on the proposed new system to the Privacy Act Officer (M–34), Room 7109, Washington, D.C., 20590. Comments must be received within 30 days to be considered.

If no comments are received, the proposed new System of records will become effective in 60 days. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, D.C., September 22, 1986.

John H. Seymour,

Assistant Secretary for Administration.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice; Proposed Adoption of a New System of Records.

SUMMARY: The purpose of this notice is to propose a new system of records for use by the FAA's Office of Aviation Safety to be in existence until 1990. The system will identify the attendees at FAA conducted safety seminars who volunteer and provide information as to the type of pilot who attends. This information will allow the FAA to determine the audience and better focus the safety message to the various levels of pilots in attendance. The system will also allow the FAA To track the accident experience of this volunteer group as opposed to the pilot community as a whole and through this comparison, determine the effectiveness of specific seminar topics.

Comment Date: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received within 30 days of this publication.

ADDRESS: Address al comments to: Harold W. Becker, Office of Aviation Safety (ASF–300), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments received will be available for public inspection in Room 917 at the above address from 8:30 a.m. to 5:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION: For further information, contact Harold W. Becker at the above address or at (202) 267–9635.

SUPPLEMENTARY INFORMATION: The FAA's Office of Aviation Safety is proposing a new system of records under the terms of the Privacy Act 5 U.S.C. section 552a to remain in existence until 1990. The name of the new system of records is to be the Back to Basics Seminar Attendance System, DOT/FAA. This notice of the proposed system of records is required by the terms of the Privacy Act at 5 U.S.C. section 552a(e)(11).

The purpose of the system is to identify the types of individuals who voluntarily attend the FAA safety seminars. The information requested will allow the FAA to determine the audience characteristics and exposure to aviation operations of the respondents. Additionally, the identification of individual respondents will allow the FAA to examine the accident experience of this group over a time which will provide feedback to the Accident Prevention Program. This type of feedback will be used to determine future safety seminar topics, methods of presentation, and allow the FAA to focus on specific groups of pilots where the feedback indicates this need.

The manner in which the system is maintained should cause no infringement upon individual rights, including the right of privacy. All submissions will be strictly voluntary.

The method of storage proposed for the system will provide adequate security against unauthorized disclosures. Individual inputs will be collected at each safety seminar and mailed directly to the office which will perform the data input and analysis. After the data has been extracted from the form and stored on the computer program, all individual paper forms are to be destroyed. At that time, only the analyst and the data processing personnel will have access to the information.

Proposed System of Records: The following system of records will be added to the systems of records of the Department of Transportation. The current annual notice of these systems of records can be found at 49 FR 15342 and FR 31800 (1984).

DOT/FAA 849

SYSTEM NAME:

Back to Basics Seminar Attendance System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of Transportation (DOT), Transportation System Center (TSC), DTS–45, Kendall Square, Cambridge, MA 02142.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All attendees at FAA Back to Basics safety seminars who voluntarily respond to the questionnaire.

CATEGORIES OF INFORMATION IN THE SYSTEM:

The types of information to be retained in the system include the following:

(a) A compilation of the attendees at the Back to Basics seminars.

(b) A characterization of the type and experience level of the pilots who attend the seminars with information such as:

(1) Name, address and date of birth.

(2) Pilot certificate number/ certificates held.

(3) Pilot/aircraft currency/flight time.
(4) Educational level.
(5) Safety seminar attendance.
(6) Specific Back to Basics seminars attended.

(c) A comparison of the list of attendees with actual aircraft accidents/incidents to determine the level of involvement or noninvolvement of the seminar attendees will be made.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information will be entered into a computer data base at TSC for automatic data processing application.

RETRIEVABILITY:

The data processing clerks and the analyst will be able to retrieve individual information as indicated in Categories of Information in the System by name or pilot certificate number.

SAFEGUARDS:

Only the data processing clerks and the analyst will have access to the computer program that contains these records. This program will be provided the normal safeguards to prevent unauthorized access. A restricted password for access to the program will be used in the computer program and any magnetic tapes or floppy disks will be stored and locked when not in use. All individual paper inputs will be destroyed after the information is entered into the computer.

RETENTION AND USE:

Computer records will be maintained until the analysis is completed. The Back to Basics Program for general aviation is planned to end in December 1988. The analysis period is expected to be from the present until late 1990 to allow sufficient time for changes to occur. When the analysis is completed, the records will be destroyed.

SYSTEM MANAGERS AND ADDRESS:

Dr. Stephen Huntley, Transportation System Center (TSC), DTS-45, Kendall Square, Cambridge, MA 02142.

NOTIFICATION PROCEDURE:

Individuals desiring to know if they are included in the system should contact the system manager.

RECORD ACCESS PROCEDURES:

Individuals desiring access to information about themselves in this system should contact the system manager.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest the information about themselves in this system should contact the system manager.

RECORD SOURCE CATEGORIES:

Information provided only by the individual respondent is included as a source of records.

Narrative Statement for the Department of Transportation, Federal Aviation Administration, Office of Aviation Safety, Proposed System of Records

The Office of Aviation Safety of the Federal Aviation Adminstration (FAA) proposes to establish a new system of records entitled "Back to Basics Seminar Attendance System, DOT/FAA." The final analysis and deactivation of the system will occur in late 1990. The following narrative statement, which is written in compliance with the terms of the Office of Management and Budget (OMB) Circular A-130, Appendix I, entitled, "Federal Agency Responsibilities for Maintenance of Records About Individuals," (50 FR 52738 (1985)), briefly describes the proposed system.

(1) *Purpose:* The purpose of this system is to identify the participants who voluntarily attend the FAA's Accident Prevention Program Seminars. At these seminars, a request will be made for volunteers to participate in a study. A characterization of these volunteers as to their level of experience, flying currency, and seminar attendance record will be made. Further, the respondents will be tracked over a period of time to determine their accident experience as compared to the pilot population as a whole. The results of this effort are to be applied to the FAA's Accident Prevention Program to improve the level of safety in the airspace system.

(2) *Effect on Individual Rights:* No infringement upon individual rights, including the right of privacy is expected. All information to be maintained in the system will be provided voluntarily by the respondents which will minimize the risk that any individual may consider the records to be an invasion of privacy.

(3) *Federalism and Separation of Powers Issues:* There will be no change in the FAA's relationship with other branches of the Federal Government or with state and local governments. Therefore, there are no federalism or separation of powers issues with the proposed system.

(4) *Security:* The method of storage proposed for the system will provide adequate security against unauthorized disclosures. Individual imputs will be collected at each safety seminar and mailed directly to the office that will perform the date input and analysis. Once the information has been extracted from the form, the paper forms will be destroyed. Only the data processing personnel and analyst will have access to the computer program. When the analysis is completed, all records are to be destroyed. The termination of this system will occur not later than December 1990.

(5) *Compatibility of Routine Uses with the Purpose for which the Records were Collected:* A study is planned to characterize the attendees as to their level of flying experience, and attendance at the Back to Basics Seminars, and to compare their accident/incident experience to the pilot population in general. All of the records collected will be directly related to the Back to Basics Program and the routine uses are compatible with the purpose for which the records are to be collected.

(6) *OMB Control Numbers:* Approval for this collection of information, titled, "Back to Basics Seminar Attendance System," is being requested from OMB. It is understood that establishment of this system of records is contingent upon that approval. Approval is expected by October 1986.

[FR Doc. 86-21904 Filed 9-26-86; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

[Docket No. 25008; Ref. PE-86-14; 51 FR 26622; July 24, 1986]

Petition for Exemption, Reopening of Comment Period

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of reopening of comment period for petition for exemption.

SUMMARY: Petition for exemption filed by Melvin M. Aman, et al., would allow petitioners to serve as pilots in Part 121 operations after reaching their 60th birthday. A summary of this petition was published in the **Federal Register** July 24, 1986 (51 FR 26622), and comments closed August 13, 1986. By letter dated August 13, 1986, the Aircraft Owners and Pilots Association (AOPA) requested a 90-day extension of the comment period in order to allow all interested parties to comment. The FAA has decided to reopen the comment period for 30 days.

SUPPLEMENTARY INFORMATION: AOPA's letter requests that the comment period be reopened for 90 days. In support of its

request, it states that 90 days is a well known and commonly accepted period for comment on a significant rulemaking action. The FAA has determined that reopening the comment period is justified for a period of 30 days. AOPA's reference to a supposed commonly accepted minimum comment period for significant rulemaking notices is simply inapplicable to the petition for exemption at issue in this docket. Reopening the comment period for 90 days would unreasonably delay consideration of the petition for exemption. An additional 30 days should provide adequate time for all interested parties to submit comments. In addition, comments received between the August 13, 1986, closing date of the original comment period and the reopening of the comment period will be considered.

DATE: Comments must be received on or before October 28, 1986.

ADDRESS: Send comments in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 25008, 800 Independence Avenue SW.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e) and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on September 23, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 86-21873 Filed 9-26-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket Nos. 85-20, 85-24, and 86-4; Notice No. 2]

Weight-Distance Truck Tax, Highway User Fee Liability (Heavy Trucks), and Transborder Trucking Studies; Extension of Comment Periods

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment periods.

SUMMARY: The FHWA issued notices on the study of a Federal weight-distance truck tax, Docket 85-20 at 50 FR 15270 (April 17, 1985) with comments due by October 1, 1986; the study of highway user fee liability for heavy trucks (cost responsibility), Docket 85-24 at 50 FR 37106 (September 11, 1985) with comments due by December 31, 1986; and the transborder trucking study; motor carrier taxes and fees, Docket 86-4 at 51 FR 1468 (January 13, 1986) with comments due by December 31, 1986. These three studies are being conducted by FHWA as required by sections 931, 932, and 933 of the Deficit Reduction Act of 1984 (Pub. L. 98-369, 98 Stat. 494). The comment periods are being extended to April 30, 1987. This extension will provide more time for the public to prepare responses to these studies.

DATE: Comments for all three dockets must be received on or before April 30, 1987.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket Nos. 85-20, 85-24, and/or 86-4, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: For Docket No. 85-20, Mr. James R. Link, Chief, Highway Revenue Analysis Branch, (202) 366-9244; for Docket No. 85-24, Mr. Roger Mingo, Chief, Systems Analysis Branch, (202) 366-9251; for Docket No. 86-4, Mr. Arthur Balek, Chief, Industry and Economic Analysis Branch, (202) 366-9234; or Michael J. Laska, Office of the Chief Counsel, (202) 366-1383, 400 Seventh Street, SW., Washington, DC 20590.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: September 22, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-21913 Filed 9-26-86; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration Hazardous Materials; Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT

ACTION: Notice of Grants and Denials of Applications of Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in July 1986. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1-Motor vehicle, 2-Rail freight, 3- Cargo vessel, 4- Cargo-only aircraft, 5-Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency-Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
970-X	DOT-E 970	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.21(b), 173.300, 173.302(g)	To authorize use of DOT Specification 3AA2015 or 3AA2400 cylinders, for transportation of a flammable poisonous gas. (Modes 1, 2.)
970-X	DOT-E 970	Callery Chemical Co., Pittsburgh, PA.	49 CFR 173.21(b), 173.300, 173.302(g)	To authorize use of DOT Specification 3AA2105 or 3AA2400 cylinders, for transportation of flammable poisonous gas. (Modes 1, 2.)
2462-X	DOT-E 2462	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.73(b)	To authorize shipment of certain lead azide in glass bottles overpacked in non-DOT specification wooden boxes. (Mode 1.)
3004-X	DOT-E 3004	Big Three Industries, Inc., Houston, TX.	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, 5.)
3004-X	DOT-E 3004	Liquid Air Corporation, Walnut, CA.	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3004-X	DOT-E 3004	Airco Industries Gases, Murray Hill, NJ.	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, 5.)
3004-X	DOT-E 3004	Union Carbide Corporation, Danbury, CT.	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, 5.)
3187-X	DOT-E 3187	PPG Industries, Incorporated, Pittsburgh, PA.	49 CFR 173.119(m), 173.21(b), 173.218, 173.221(a)(3).	To renew and modify paragraph 8a to allow replenishment of dry ice. (Mode 1.)
3330-X	DOT-E 3330	Teledyne Wah Chang Albany, Albany, OR.	49 CFR 173.214(b), 173.214(d)	To authorize use of non-DOT specification insulated containers overpacked in DOT Specification 17C, 17H, or 37A metal drums, for transportation of certain flammable solid materials. (Modes 1, 2.)
3941-X	DOT-E 3941	Pacific Engineering & Production Company of Nevada, Henderson, NV.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1, 2.)
4453-P	DOT-E 4453	Independent Explosives Co. of Penna., Scranton, PA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 173.83.	To become a party to Exemption 4453. (Modes 1, 3.)
4453-P	DOT-E 4453	Nitrochem Energy Corp., Biwabik, MN.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 4453. (Modes 1, 3.)
5232-X	DOT-E 5232	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.314(c) table	To authorize shipment of certain flammable and nonflammable liquefied compressed gases in AAR Specification 120A300W tank cars, and DOT Specification 105A500W tank cars. (Mode 2.)
5704-X	DOT-E 5704	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification steel drums. (Modes 1, 2, 3.)
5704-X	DOT-E 5704	Trojan Corporation, Spanish Fork, UT.	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification steel drums. (Modes 1, 2, 3.)
5704-X	DOT-E 5704	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification steel drums. (Modes 1, 2, 3.)
5704-X	DOT-E 5704	Atlas Powder Company, Dallas, TX.	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification steel drums. (Modes 1, 2, 3.)
5704-X	DOT-E 5704	Hercules, Incorporated, Wilmington, DE.	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification steel drums. (Modes 1, 2, 3.)
6670-X	DOT-E 6670	Airco, The BOC Group, Inc., Murray Hill, NJ.	49 CFR 173.301(d), 173.302	To authorize shipment of tetrafluoromethane, in DOT Specification 3A2400, 3AA2400, 3AX2400 and 3AAX2400 cylinders. (Mode 1.)
6670-X	DOT-E 6670	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.301(d), 173.302	To authorize shipment of tetrafluoromethane, in DOT Specification 3A2400, 3AA2400, 3AX2400 and 3AAX2400 cylinders. (Mode 1.)
6752-P	DOT-E 6752	ATOCHEM, Paris, France	49 CFR 173.301(d)(3), 173.304(a)(2)	To become a party to Exemption 6752. (Modes 1, 2, 3.)
6828-X	DOT-E 6828	Whitehall-Boyle International Inc., New York, NY.	49 CFR 173.1200(a), 173.244(a)	To authorize use of inside glass bottles packed in non-DOT specification fiberboard boxes, for transportation of certain corrosive materials. (Modes 1, 2, 3.)
6890-X	DOT-E 6890	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.100(cc), 175.3	To authorize transport of an explosive severance system consisting of linear segments which may contain up to 79 grams of hexanitrotilbene. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	EG&G Environmental Equipment, Catsumet, MA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Leigh Instruments Limited Carleton Place, Ontario, VA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Allen-Bradley Company, Milwaukee, WI.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Eaton Corporation, Westlake Village, CA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4.)
7076-X	DOT-E 7076	LaMotte Chemical Products Company, Chestertown, MD.	49 CFR 173.266(b)	To authorize packaging not prescribed in the Hazardous Materials Regulations, for transportation of a certain corrosive liquid and flammable liquid. (Modes 1, 2, 3.)
7096-X	DOT-E 7096	Fike Metal Products Corporation, Blue Springs, MO.	49 CFR 173.304(a)(1), 178.55	To authorize shipment of bromotrifluoromethane (Freon 1301) in non-DOT specification cylinders, fabricated in accordance with DOT Specification 4B240ET with certain exceptions. (Modes 1, 2, 3.)
7218-X	DOT-E 7218	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3	To authorize use of an aluminum foil label as an alternate marking method of retest dates on cylinders. (Modes 1, 2, 3, 4, 5.)
7227-X	DOT-E 7227	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.203, 173.318, 173.32, 173.320, 175.3, 176.30, 176.76, 178.338.	To authorize an additional portable tank of 1920 gallon capacity. (Modes 3, 4.)
7227-X	DOT-E 7227	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.203, 173.318, 173.32, 173.320, 175.3, 176.30, 176.76, 178.338.	To authorize an additional model portable tank of 3,126 gallon capacity for shipment of nitrogen refrigerated liquid. (Modes 3, 4.)
7227-X	DOT-E 7227	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.203, 173.318, 173.32, 173.320, 175.3, 176.30, 176.76, 178.338.	To authorize cargo aircraft as an additional mode of transportation. (Modes 3, 4.)
7259-X	DOT-E 7259	FMC Corporation, Philadelphia, PA.	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks for shipment of phosphorus pentasulfide by water. (Mode 3.)
7259-X	DOT-E 7259	Exxon Chemical Americas, Houston, TX.	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks, for shipment of phosphorus pentasulfide by water. (Mode 3.)
7259-X	DOT-E 7259	Stauffer Chemical Company, Westport, CT.	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks, for shipment of phosphorus pentasulfide by water. (Mode 3.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize use of an aluminum foil label as an alternate marking method of retest dates on cylinders. (Modes 1, 2, 3, 4, 5.)
7544-X	DOT-E 7544	Eastman Kodak Company, Rochester, NY.	49 CFR 173.245, 173.249, 173.272	To authorize transport of solutions of sodium hydroxide and certain other liquid corrosives, or other liquid corrosive materials in a DOT Specification 2U polyethylene inside container, overpacked in a non-DOT specification fiberboard box. (Modes 1, 2, 3.)
7640-X	DOT-E 7640	Mauser Packaging, Ltd., New York, NY.	49 CFR 173.266(a), 178.19	To authorize user of a DOT-34 polyethylene container of 15 gallon capacity, for shipment of hydrogen peroxide, 60%. (Modes 1, 2, 3.)
7774-X	DOT-E 7774	Pipe Recovery Systems, Incorporated, Houston, TX.	49 CFR 173.246, 175.3	To authorize shipment of bromine trifluoride in non-DOT specification cylinders. (Modes 1, 2, 4.)
7802-X	DOT-E7802	Bennett Industries, Peotone, IL	49 CFR Part 173, Subpart D, F	To authorize shipment of liquid hazardous materials in non-DOT specification 3.5 or 5 gallon capacity removable head polyethylene drums. (Modes 1, 2, 3.)
7971-X	DOT-E7971	Walter Kidde, Wilson, NC	49 CFR 173.302, 173.304, 175.3, 178.53	To authorize manufacture, marking and sale of non-DOT specification cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7991-X	DOT-E7991	Union Pacific Railroad Company, Omaha, NE.	49 CFR Parts 100-177	To authorize transport of railway track torpedoes and fusees in flagging kits of specified construction. (Mode 1.)
8162-X	DOT-E8162	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8162-X	DOT-E8162	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1) 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8299-X	DOT-E8299	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.44	To authorized manufacture, marking and sale of a non-DOT specification pressure vessel comparable to a DOT Specification 3HT cylinder with certain exceptions, for transportation of a compressed gas. (Modes 1, 2, 4, 5.)
8387-X	DOT-E8387	FMC Corporation, Philadelphia, PA.	49 CFR 173.266(e)	To authorize transport of hydrogen peroxide in DOT Specification MC-312 cargo tank aboard cargo vessel. (Mode 3.)
8391-X	DOT-E8391	EFI Corporation, d/b/a EFIC, San Jose, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8397-X	DOT-E8397	Mauser Packaging, Ltd., New York, NY.	49 CFR 173.154, 173.160, 173.191, 173.217, 173.245b, 173.945, 178.16.	To authorize manufacture, marking and sale of non-DOT specification, nonreusable, molded polyethylene drums with fully removable head, for transportation of various dry hazardous materials. (Modes 1, 2, 3.)
8509-X	DOT-E8509	Mobay Corporation, Pittsburgh, PA.	49 CFR 173.263(a)(9), 179.201-1	To authorize use of a safety relief valve in lieu of a safety vent in DOT Specification 111A100W5 tank car tanks, for transportation of hydrochloric acid. (Mode 2.)
8509-X	DOT-E8509	American Hoechst Corporation, Somerville, NJ.	49 CFR 173.263(a)(9), 179.201-1	To authorize use of a safety relief valve in lieu of a safety vent in DOT Specification 111A100W5 tank car tanks, for transportation of hydrochloric acid. (Mode 2.)
8718-X	DOT-E 8718	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3	To authorize manufacture, marking and sell of non-DOT specification fiber reinforced plastic full composite cylinder for use as an equipment component aboard aircraft and marine craft, for tranportation of certain nonflammable compressed gases. (Mode 1, 2, 3, 4, 5.)
8814-X	DOT-E 8814	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastice full composite cylinders, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4.)
8816-X	DOT-E 8816	Beatrice Grocery Group Inc., Fullerton, CA.	49 CFR 172.504(a)	To authorize rail boxcar shipment of matches, strike anywhere, packed in compliance with 49 CFR 173.176 and in a quality not to exceed 2,000 pounds without placarding the rail boxcar. (Mode 2.)
8817-P	DOT-E 8817	General Chemical Corporation, Morristown, NJ.	49 CFR 173.274(a) (1), Note	To become a party to Exemption 8817. (Modes 1, 2, 3.)
8820-X	DOT-E 8820	SLEMI, Paris, France	49 CFR 173.315	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportion of liquefied compressed gases. (Modes 1, 2, 3.)
8820-X	DOT-E 8820	Arbel-Fauvet-Girel, St Laurent Blangy, France.	49 CFR 173.315	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of liquefied compressed gases. (Modes 1, 2, 3.)
8850-X	DOT-E 8850	Hoover Group, Inc., Beatrice, NE	49 CFR Part 173, Subpart D, E, F, H, Subpart K.	To authorize manufacture, marking and sale of non-DOT specification stainless steel, cubical-shape container, for shipment of those liquid hazardous materials for which DOT Specification 5, 5B, 5C or 17E drums are prescribed. (Modes 1, 2, 3.)
8873-X	DOT-E 8873	Stauffer Chemical Company, Westport, CT.	49 CFR 173.121	To authorize use of DOT Specification MC-312 cargo tanks, for transportation of carbon disulfide or carbon bisulfide. (Mode 1.)
8893-X	DOT-E 8893	Trojan Corporation, Salt Lake City, UT.	49 CFR 172.101	To authorize transport of a mixture containing, by weight, 10% trimethylolethane trinitrate and 90% methanol, in non-DOT specification drums. (Mode 1.)
8957-X	DOT-E 8957	Saber Aviation, Inc., Charlotte, NC.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
8976-X	DOT-E 8976	Diamond Shamrock Corporation, Irving, TX.	49 CFR 173.204(a)(3), 173.28(m)	To authorize a one time reuse of DOT Specification 17H steel drums, having a liner of polyethylene film and which deviate from retest requirements, for shipment of sodium hydrosulfite. (Modes 1, 2, 3.)
9002-X	DOT-E 9002	PepsiCo, Inc Purchase, NY	49 CFR 178.210-10(a) (2)	To authorize shipment of flavoring components in non-DOT specification fiberboard boxes with inside polyethylene bottles. (Mode 1, 2, 3.)
9222-X	DOT-E 9222	Bryson Industrial Services, Inc., Lexington, SC.	49 CFR 173.154	To authorize use of non-DOT specification metal tanks, for transportation of a flammable liquid or flammable solid. (Mode 1.)
9222-X	DOT-E 9222	Caldwell Systems, Inc., Lenoir, NC.	49 CFR 173.154	To authorize use of non-DOT specification metal tanks, for transportation of a flammable liquid or flammable solid. (Mode 1.)
9222-X	DOT-E 9222	Wilms Trucking Company, Inc., Charleston Heights, SC.	49 CFR 173.154	To authorize use of non-DOT specification metal tanks, for transportation of a flammable liquid or flammable solid. (Mode 1.)
9222-X	DOT-E 9222	Seaboard Chemical Corporation, Jamestown, NC.	49 CFR 173.154	To authorize use of non-DOT specification metal tanks, for transportation of a flammable liquid or flammable solid. (Mode 1.)
9331-P	DOT-E 9331	American Hoechst Corporation, Somerville, NJ.	49 CFR 173.263(a)(10)	To become a party to Exemption 9331. (Mode 1.)
9440-X	DOT-E 9440	Hoover Group, Inc., Beatrice, NE	49 CFR 173.119, 173.256, 173.266, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sell of non-DOT specification rotationally molded, cross-linked polyethylene portable tanks enclosed with a protective steel frame, for shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, 2, 3.)
9606-X	DOT-E 9606	The Ensign-Bickford Company, Simsbury, CT.	49 CFR 173.66(b)	To authorize two shipments of more than 110 detonators in one inside specially designed package. (Modes 1, 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9388-N	DOT-E 9388	Cominco American Incorporated, Spokane, WA.	49 CFR 173.314(e)	To determine the anhydrous ammonia content in tank cars by a metering device instead of by calculating the weight. (Mode 2.)
9435-N	DOT-E 9435	L'Air Liquide, Paris, France	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h).	To authorize shipment of certain nonflammable pressurized liquids in non-DOT specification portable tanks. (Modes, 1, 3.)
9537-N	DOT-E 9537	L'Air Liquide, Sassenage, France	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h).	To authorize shipment of helium refrigerated liquid, classed as nonflammable gas, in non-DOT specification portable tanks of 10,911 gallon capacity. (Modes 1, 3.)
9581-N	DOT-E 9581	RAMP Industries, Inc., Aurora, CO.	49 CFR 173.416(e)	To authorize Type B quantities of a radioactive material, solid, in a DOT Specification 2R container overpacked in a concrete filled 55 gallon DOT Specification 17C placed inside a 20WC wooden overpack. (Mode 1.)
9592-N	DOT-E 9592	IBCON International, Inc., McKinney, TX.	49 CFR 173.154, 173.164, 173.178, 173.182, 173.234, 173.245b.	To manufacture, mark and sell non-DOT specification flexibility intermediate bulk bags of approximately 2,200 pounds capacity for shipment of certain flammable, corrosive and oxidizer solids. (Modes 1, 3.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9599–N	DOT–E 9599	Gibson Cryogenics, Inc., El Cajon, CA.	49 CFR 172.203, 173.316, 173.320, 176.30, 176.76(h).	To manufacture, mark and sell non-DOT specification portable tanks constructed of 304 stainless steel with a carbon steel jacket, approximately 4,000 gallon capacity, for shipment of argon, refrigerated liquid, classed as nonflammable gas. (Modes 1, 3.)
9612–N	DOT–E 9612	PPG Industries, Inc., Pittsburgh, PA.	49 CFR 173.266	To authorize shipment of ethyl and methyl chloroformates in DOT Specification 105A500W tank cars. (Mode 2.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9035–X	DOT–E 9035	NL McCullough/NL Industries, Inc., Houston, TX.	49 CFR 173.100(v), 173.112, 175.3	To authorize transport of limited quantities of certain propellant explosives in a plastic tube packed in a DOT Specification 12B fiberboard box.
EE 9212–X	DOT–E 9212	Gibson Cryogenics, Inc., Ogden, UT.	49 CFR 173.315	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks, for shipment of carbon dioxide, refrigerated liquid. (Modes 1, 3.)
EE 9630–N	DOT–E 9630	The ALTA Group, Evans City, PA.	49 CFR 173.154	To authorize shipment of titanium dichloride, water reactive solid, n.o.s., classed as a flammable solid in a non-DOT specification ASME portable tank. (Mode 1.)
EE 9633–X	DOT–E 9633	McDonnell Douglas, Astronautics Company, Titusville, FL.	49 CFR 172.101 column 8(b), 175.30	To authorize transport by cargo aircraft of a propellant explosive and igniter, rocket motor, in quantities which exceed the maximum limits prescribed in column 8, Section 172.101 table. (Mode 4.)
EE 9639–N	DOT–E 9639	Transamerica Airlines, Oakland, CA.	49 CFR 172.101 column 8(b), 175.3, 175.78.	To authorize transport of ammunition for cannon with explosive projectile aboard cargo aircraft. (Mode 4.)
EE 9640–N	DOT–E 9640	Machine Tool Works, Oerlikon-Buhrle, Ltd., Zurich, Switzerland.	49 CFR 172.101 column 8(b), 175.30	To authorize transport of rocket ammunition with explosive projectile and rocket ammunition with inert loaded projectile aboard cargo aircraft. (Mode 4.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9552–P	Atlas Power Company, Dallas, TX	49 CFR 178.218–11	To become a party to Exemption 9552. (Mode 1)

DENIALS

9397–P Request by General Chemical Corporation, Morristown, NJ to authorize shipment of certain Class B poison, liquids in DOT Specification 34 polyethylene containers denied July 1, 1986.

9624–N Request by FlexCon and Systems, Inc., Lafayette, LA to authorize use of woven polypropylene, semi-bulk bags of 2200 pounds capacity for shipping certain oxidizers, corrosive materials and a flammable solid denied July 23, 1986.

Issued in Washington, DC, on September 18, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86–21901 Filed 9–26–86; 8:45 am]

BILLING CODE 4910–60–M

[Docket No. IRA–38]

Citizens Against Nuclear Trucking; Application for Inconsistency Ruling

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Public Notice and Invitation to Comment.

SUMMARY: Citizens Against Nuclear Trucking (CANT) has applied for an administrative ruling determining whether certain provisions of a Connecticut statute and the regulations adopted thereunder, Connecticut General Statutes Sec. 16a-106(a) and (b) and Connecticut Regulations Secs. 19–409d–51, 53, 54, and 55, are inconsistent with the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations (HMR) issued thereunder, and, therefore, preempted govern the transportation of certain radioactive materials from, into or through that State.

DATES: Comments received on or before November 14, 1986, and rebuttal comments received on or before December 29, 1986, will be considered before an administrative ruling is issued by the Director of the Office of Hazardous Materials Transportation. Rebuttal comments may discuss only those issues raised by comments received on or before November 14, 1986, and may not discuss new issues.

ADDRESSES: The application and any comment received may be reviewed in the Dockets Branch, Research and Special Programs Administration, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC 20590. Comments and rebuttal comments on the application may be submitted to the Dockets Branch at the above address, and should include the Docket Number, IRA–38. Three copies are requested. A copy of each comment and rebuttal comment must also be sent to Mr. Lindsay Audin, Technical Director, Citizens Against Nuclear Trucking, 215–47 47th Ave., Bayside, N.Y. 11591 and to Hon. Joseph I. Lieberman, Attorney General, State of Connecticut, 30 Trinity St., Hartford, CT 06106 ATTN: Assistant Attorney General Cornelius F. Tuohy, and that fact certified to at the time comment is submitted to the Dockets Branch. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Mr. Audin and to Mr. Lieberman at the addresses specified in the **Federal Register.**"

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper, III, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, SW., Washington, DC 20590, telephone 202–366–4401.

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA at section 112(a) (49 U.S.C. app 1811(a)) expressly preempts "any requirement of a State or political subdivision thereof, which is inconsistent with any requirement" of

the HMTA or the HMR issued thereunder. Section 112(b) (49 U.S.C. app 1811(b)) provides that an inconsistent state or political subdivision requirement ceases to be preempted, if, upon proper application, the Secretary of Transportation determines that the requirement (1) provides an equal or greater level of protection to the public than the HMTA or the HMR and (2) does not unreasonably burden commerce.

Procedural regulations implementing section 112 of the HMTA are codified at 49 CFR 107.201–107.225. These regulations provide for the issuance of inconsistency rulings and nonpreemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a state or political subdivision requirement and a requirement of the HMTA or HMR. Section 107.209(c) sets forth the following factors which are considered in determining whether a state or political subdivision requirement is inconsistent:

(1) Whether compliance with both the state or political subdivision requirement and the HMTA or HMR is possible; and

(2) The extent to which the state or political subdivision requirement is an obstacle to the accomplishment and execution of the HMTA and the HMR.

Since this proceeding is for an inconsistency ruling, comments relating to the criteria for waiver of preemption are premature and will not be considered.

2. The Application for Inconsistency Ruling

On July 16, 1986, Citizens Against Nuclear Trucking (CANT) filed an application for an administrative ruling seeking a determination that certain portions of Connecticut General Statutes (CGS) Sec. 16a–106 (a) and (b) and Connecticut Regulations Secs. 19–409d–51, 53, 54 and 55 regulating the transport from, into and through Connecticut of certain radioactive materials are inconsistent with the HMTA or the HMR. These statutory and regulatory provisions contain notice, routing, permit, information, documentation and time requirements and are reprinted as Appendix A to this Notice.

CANT contends that its members live and work near, and utilize, a highway (Interstate 84) affected by the cited provisions, and thus are affected by those provisions.

CANT specifically requests that the Connecticut provisions be tested for inconsistency with Appendix A to 49 CFR Part 177 and with 49 CFR 177.825. Comparison with Appendix A will not be undertaken because Appendix A is not a law or regulation, but merely a statement of DOT policy. Thus, comparison of the Connecticut provisions will be made only with 49 CFR 177.825 (and any necessarily-related HMTA or HMR provisions).

CANT asserts that the Connecticut provisions are inconsistent for three general reasons:

(1) They place routing and filing requirements for shipments of materials that are exempted from such requirements under Federal rules;

(2) They require filing of additional documents beyond those required by Federal rules; and

(3) They create time and escort restrictions in conflict with Federal rules.

The applicant contends that CGS Sec. 16a–106(a) is inconsistent because it places routing and filing requirements on certain shipments of radioactive materials, i.e., those not required to be placarded under 49 CFR Parts 172 and 173. It also contends that Connecticut's use of the term "large quantity radioactive material" conflicts with a recent Federal redefinition of such materials as "[highway] route controlled [quantity] radioactive materials."

Also, CANT contends that CGS Sec. 16a–106(b) and Connecticut Regulation Sec. 19–409d–51 are inconsistent because they require filing of shipment-specific data, such as type and quantity of material, the date and time of travel, and the route to be used.

CANT next asserts that Connecticut Regulation Sec. 19–409d–51 is also inconsistent because it requires filing of certain data (e.g., certifications of proper classification, packaging, and loading, as well as information on the tractor and trailer) different from, and in addition to, the shipping paper entries required in 49 CFR 177.825(d)(2).

In addition, CANT states that CGS Sec. 16a–106(b) is inconsistent because it allows the State to require additional escorts and prenotification ("by demanding shipping time in advance in order for a shipper to receive a permit").

Finally, CANT contends that Connecticut Regulation Sec. 19–409d–55 is inconsistent because, by limiting shipments to 9 a.m. to 4 p.m. on non-holiday weekdays, it could unnecessarily delay transportation.

3. Public Comment

Comments should be restricted to the issue of whether the challenged portions of Connecticut General Statutes Sec. 16a–106(a) and (b) and Connecticut Regulations Secs. 19–409d–51, 53, 54 and 55 are inconsistent with HMTA or the HMR issued thereunder.

Persons intending to comment on the application should examine the complete application in the RSPA Dockets Branch, the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211) and the cited Connecticut statute and regulations which are provided as Appendix A to this notice CANT has identified the challenged provisions as those italicized in Appendix A.

Issued in Washington, DC, on September 23, 1986.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Appendix A—Connecticut Provisions at Issue in Application

(Challenged provisions are italicized.)

Connecticut General Statutes Sec. 16a–106 (a) and (b):

§ 16a–106. Transporting of radioactive materials in the state. Permit required. Regulations. Exemptions. Penalty

(a) No person shall transport into or through the state any of the following materials: (1) Any quantity of radioactive material specified as a "large quantity" by the Nuclear Regulatory Commission in 10 CFR, Part 71, entitled "Packaging of Radioactive Material for Transport", *(2) any quantity of radioactive waste which has been produced as part of the nuclear fuel cycle and which is being shipped from or through the state to a waste disposal site or facility* or (3) any shipment of radioactive material or waste which is carried by commercial carrier and which is required in 10 CFR or 40 CFR to have a placard unless such person has been granted a permit to transport such material from the commissioner of transportation.

(b) Prior to the transporting of such materials, such person shall apply to the commissioner of transportation for a permit and provide said commissioner with the following information: (1) Name of shipper, (2) name of carrier, *(3) type and quantity of radioactive material or waste, (4) proposed date and time of shipment, (5) starting point, scheduled route, and destination and (6) any other information required by the commissioner.* Said commissioner shall grant such permit upon a finding that the transporting of such material shall be accomplished in a manner necessary to protect public health and safety of the citizens of the state. Such permit shall be granted or denied not later than three days, Saturdays and Sundays excluded, after such person has applied for such permit, except that if the commissioner

determines that such additional time is required to evaluate such application, the commissioner shall notify such person not later than such three-day period that additional time is required. *Said commissioner may require changes in dates, routes or time for the transporting of such material or the use of escorts in the transporting of such material or waste* if necessary to protect the public health and safety. The commissioner may consult with the commissioner of environmental protection and the commissioner of public safety prior to the granting of any permit and of the terms and conditions of such permit. The commissioner of public safety shall establish an inspection procedure along scheduled routes to ensure compliance with permit conditions and with regulations adopted by the commissioner of transportation pursuant to subsection (c).

Connecticut Regulations Secs. 19–409d–51, 53, 54 and 55:

Transport of Radioactive Material

Sec. 19–409d–51. Purpose

To prescribe the Connecticut Department of Transportation regulations relating to *the transport of large quantities of radioactive material or any quantity of radioactive waste, produced as a part of the nuclear fuel cycle* and being shipped from or through the State of Connecticut to a waste disposal site or facility. These regulations are to assure the degree of control necessary to protect the public health and safety of the travelling public and the citizens of Connecticut and are promulgated in accordance with provisions of section 19–409d of the General Statutes of Connecticut as revised (PA 76–321).

(Effective August 25, 1977)

Sec. 19–409d–53. Definitions

Application—Any written or verbal request to the Commissioner for a permit.

Carrier—See motor carrier.

Commissioner—Means the Commissioner of the Department of Transportation appointed pursuant to title 13b of the Connecticut General Statutes as amended.

Confirmation of Permit—A permit shall be deemed valid when the operator of the vehicle, upon request, can produce the permit, any reproduction of the permit, or an authorized telegram, telex, or twx sent by the Commissioner.

Large Quantity—When used in this section refers to the Nuclear Regulatory Commission definition contained in Title 10 of the Code of Federal Regulations, Part 71, entitled "Packaging of Radioactive Material for Transport," a copy of which is on file with the Commissioner of Transportation.

Motor Carrier—The term "Motor Carrier" or "Carrier" includes a common carrier by motor vehicle, a contract carrier by motor vehicle and a private carrier of property by motor vehicle.

Nuclear Fuel Cycle—The series of steps involved in supplying fuel for nuclear power reactors. *It includes mining, refining, the original fabrication of fuel elements,* their use in a reactor, chemical processing to recover the fissionable material remaining in the spent fuel or other disposition of spent fuel, or reenrichment of reuse of the fuel material and refabrication into new fuel elements.

Permit—A written document allowing the use of certain specified Connecticut highways for the transport of radioactive material issued by the Commissioner to a permittee.

Permittee—Any person who has applied for and has been issued a permit to transport radioactive material over certain Connecticut highways.

Persons—Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing.

Radiation—Ionizing radiation which includes any or all of the following: alpha rays, beta rays, gamma rays, X-rays, neutrons and other atomic particles but not sound or radiowaves or visible, infrared or ultraviolet light.

Radioactive Material—"Any object, material or combination thereof which spontaneously emits ionizing radiation and either (1) is considered a 'Large Quantity,' as defined in this section 13(b)–17–53 or (2) consists of radioactive waste which has been produced as part of the nuclear fuel cycle."

Radioactive Waste—Any radioactive material that has served its primary purpose.

Shipper—Any person, with a federal license, authorized to possess, use or transfer radioactive material.

Waste Disposal Site or Facility—Any site or facility to which radioactive waste is transported for permanent disposal or reprocessing.

(Effective August 25, 1977)

Sec. 19–409d–54. Application for permit to transport radioactive material.

No person shall transport radioactive material over Connecticut highways until a permit has been issued by the Commissioner of Transportation.

All applications for a permit to transport radioactive material shall be made to the Connecticut Department of Transportation. Application may be made to the Commissioner of Transportation during normal working hours, Monday thru Friday; Holidays, Saturdays and Sundays excluded.

No applications will be processed without a two hour advance notice nor will an application be accepted more than one working day in advance of the scheduled move except that the Commissioner reserves the right to waive the advance notice requirement when it is in the best interest of public health and safety.

No application will be considered until the applicant has submitted the following certificates to the Commissioner of Transportation:

A written statement from the Shipper certifying that the articles described in the shipping papers are properly classified, described, packaged, marked and labeled, and that the articles are in proper condition for transportation, according to the applicable regulations of the Nuclear Regulatory Commission and the Federal Department of Transportation.

A written statement from the carrier certifying that the packaged radioactive material has been loaded, blocked and properly secured onto the transport vehicle. The certification shall also state that the vehicle and load are in compliance with the applicable motor carrier safety regulations of the Federal Department of Transportation.

In addition to the required certifications from the shipper and the carrier, each applicant shall provide the following information:

1. Name of the shipper.

2. Name and mailing address of the carrier.

3. Type of major isotopes, quantity (in curies) and type of label.

4. Date and time of shipment.

5. Origin, scheduled route and destination. (All routing will be via limited access highways and the shortest practicable route to and from them.)

6. Year, make, color, State of registration and plate number of both the tractor and trailer.

7. Driver(s) and name(s).

8. Any additional information as required.

This permit or a confirmation of such permit shall be retained in the possession of the operator of the vehicle while transporting the radioactive material over Connecticut highways.

(Effective August 25, 1977)

Sec. 19–409d–55. Conditions of a permit.

In the interest of public health and safety, the following requirements are to be considered a condition of the permit.

1. All routes will be determined by the Connecticut department of transportation.

2. All shipments are to be made during daylight hours between the hours of 9:00 A.M. thru 4:00 P.M.

3. The permit is void on Saturdays, Sundays and Holidays.

4. The permit or a confirmation of it must be in the possession of the operator of the vehicle while transporting the radioactive material over Connecticut state highways.

[FR Doc. 86-21934 Filed 9-26-86; 8:45 am]

BILLING CODE 4910-60-M

[Inconsistency Ruling No. IR-17; Docket No. IRA-34]

Illinois Fee on Transportation of Spent Nuclear Fuel; Invitation to Comment on Appeal of IR-17

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Wisconsin Electric Power Company, the Electric Utility Companies' Nuclear Transportation Group and the Department of Energy have appealed to the Administrator of the Research and Special Programs Administration (RSPA) the June 4, 1986 decision of the Director, Office of Hazardous Materials Transportation (IR-17; 51 FR 20926, June 9, 1986), finding an Illinois fee on spent nuclear transportation not inconsistent with the Hazardous Materials Transportation Act (HMTA) or the Hazardous Materials Regulations (HMR) adopted thereunder. Comments are invited on the merits of the appeals. Pending resolution of the appeals of IB-17 Docket No. IRA-34), RSPA is deferring action on the application of the Nuclear Assurance Corporation (Docket No. IRA-36) for an inconsistency ruling concerning a similar Pennsylvania fee. Persons interested in that application are invited to comment on the appeals of IR-17.

DATES: Comments received on or before November 14, 1986, and rebuttal comments received on or before December 29, 1986, will be considered before an administrative ruling is issued by the Administrator. Rebuttal comments may discuss only those issues raised by comments received on or before November 7, 1986, and may not discuss new issues.

ADDRESSES: The appeals and any comment received may be reviewed in the Dockets Branch, Research and Special Programs Administration, Room 8426, Nassif Building, 400 7th Street, SW, Washington, DC 20590. Comments and rebuttal comments on the application must be submitted to the Dockets Branch at the above address, and should include the Docket Number, IRA-34. Three copies are requested. A copy of each comment and rebuttal comment must be sent to each of the following parties:

1. Wisconsin Electric Power Company, c/o Jack McKay, P.C., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, DC 20036
2. Electric Utility Companies', Nuclear Transportation Group, c/o Leonard M. Trosten, Esq., LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Ave., N.W., Washington, D.C. 20036
3. J. Michael Farrell, Esq., General Counsel, Department of Energy, Washington, DC 20585
4. Henry L. Henderson, Esq., Assistant Attorney General, Environmental Control Division, 100 W. Randolph St., 13th Floor Chicago, IL 60601

Each comment and rebuttal comment submitted to the Dockets Branch must certify that copies were sent to the above-named individuals. (The follow format is suggested: "I hereby certify that copies of this comment have been sent to Messrs. McKay, Trosten, Farrell and Henderson at the addresses specified in the Federal Register.")

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper, III, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, telephone 202-366-4401.

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA at section 112(a)(49 U.S.C. app. section 1811(a)) expressly preempts any requirement of a state or political subdivision thereof, which is inconsistent with any requirement of the HMTA or the HMR issued thereunder. Section 107.209(c) of Title 49, Code of Federal Regulations sets forth the following factors which are considered in determining whether a state or political subdivision requirement is inconsistent: (1) Whether compliance with both the state or political subdivision requirement and the HMTA or HMR is possible; and (2) the extent to which the state or political subdivision requirement is an obstacle to the accomplishment and execution of the HMTA and the HMR.

On March 21, 1985, Wisconsin Electric Power (WEPCO) applied for an administrative ruling on the question of whether an Illinois statutory transportation fee of $1,000 per cask of spent nuclear fuel traversing the state is inconsistent with and, thus, preempted by the HMTA or HMR. The transit fee is part of Illinois' Nuclear Safety Preparedness Program.

2. The Inconsistency Ruling (IR-17)

On June 4, 1986, the Director, Office of Hazardous Materials Transportation issued Inconsistency Ruling 17 (IR-17), which was published at 51 FR 20926 on June 9, 1986. That ruling determined that the Illinois transit fee is not inconsistent with the HMTA or the regulation issued thereunder. In reaching that decision, the Director made the following findings:

(1) The transit fee does not effectively redirect shipments of spent fuel away from Illinois.

Highway transporters must select routes in compliance with Department of Transportation (DOT) rules. Payment of the fee does not prevent their complying with those rules. Transporters by rail are not subject to DOT routing rules and may seek to avoid Illinois, but they have fewer routes to choose from and increasing transit time also increases costs. It was not shown that redirection of rail shipments was a necessary result of the transit fee.

(2) The transit fee does not significantly delay the transportation of spent fuel in Illinois.

Shipments are not denied entry for non-payment of fees. Only those shipments found to be in violation of Federal safety standards are restricted. Also, carriers need only accept (not provide) additional escorts.

(3) The transit fee does not significantly delay the transportation of spent fuel in Illinois.

The nature of spent fuel transport operations is such that there is amply time between identification of a shipment and commencement of transportation for payment of the fee. No delay is inherent in complying with the State requirement. Time involved in inspections is not unreasonable. Time needed to notify escorts of arrival is not unreasonable.

(4) The transit fee is not an inconsistent permit requirement.

There is no assertion of State authority to deny access to any shipment which is in full compliance with Federal safety standards. There is no lengthy application and processing which could delay shipments. Its validity as a user fee is an issue for the courts.

(5) The transit fee is not part of a regulatory program which is inconsistent with the HMTA.

Illinois has developed precisely the sort of coordinated emergency preparedness program which DOT has long endorsed. It does not duplicate Federal assistance programs, but provides the necessary framework for accessing them. The escorts are a part of, not a substitute for, a statewide emergency preparedness program.

(6) The transit fee does not increase regulatory multiplicity by encouraging other jurisdictions to enact similar requirements.

If a State requirement is not inconsistent, it is not preempted under the HMTA, regardless of whether widespread adoption of similar requirements by other States would be undesirable.

3. The Appeals of IR–17

On September 3, 1986, appeals of IR–17 where filed with the Administrator of the Research and Special Programs Administration by the Electric Utility Companies' Nuclear Transportation Group (the Group), the Department of Energy (DOE) and Wisconsin Electirc Power Company (WEPCO) (which merely adopted and incorporated by reference the Group's brief).

The Group, consisting of 35 companies responsible for construction or operation of 99 nuclear power reactors, raises the following four arguments in support of its appeal:

(1) The Office of Hazardous Materials Transportation (OHMT) failed to attribute appropriate importance to the potentially substantial cumulative effect of the adoption of escalating fee requirements by many States, including the likelihood that fees will support practices that DOT has already found to be inconsistent with the HMTA.

(2) The OHMT failed to examine the extent to which Illinois is uniquely burdened with respect to spent fuel shipments and the implications of singling out spent fuel shipments from all other hazardous materials shipments for discriminatory treatment.

(3) The OHMT did not adquately explore the potential for delay inherent in the Illinois inspection and escort programs, such delay being inconsistent with the provisions of the HMTA and the HM–164 rule on highway routing of radioactive materials.

(4) The OHMT's decision undercuts the ability of the DOE to negotiate appropriate arrangements with States under the Nuclear Waste Policy Act (NWPA).

In its appeal, DOE asserts that the Illinois transit fee fails the "obstacle" test, i.e., it is an obstacle to the accomplishment and execution of the HMTA and the HMR. DOE states that the fee redirects, restricts and delays shipments of spent fuel and thus is inconsistent. It says that "OHMT" has not reconciled in IR–17 how it can find that the Illinois transit fee is utilized to support duplicate and time-consuming inspections and still conclude that the transit fee does not significantly delay the movement of spent fuel."

Finally, DOE says that allowing the Illinois fee to stand enchances undesirable multiplicity. It says that OHMT's decision in IR–15 (49 FR 46860, November 27, 1984) voiding a similar $1,000 Vermont transit fee is indistinguishable from this case.

DOE summarizes its position as follows:

"Since the Illinois fee redirects, restricts and delays transport of spent fuel, it is inconsistent with the HMTA and if it is allowed to stand other states will be encouraged to enact similar inconsistent fee requirements supporting similar duplicative and time-consuming enforcement procedures, and will thereby undermine the national radioactive materials transportation safety system carefully developed by DOT."

4. Public Comment

Comments should be restricted to the issue of whether the challenged Illinois transit fee is inconsistent with HMTA or the regulations issued thereunder.

Persons intending to comment should examine the complete appeals documents in the RSPA Dockets Branch and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211).

Issued in Washington, DC on September 23, 1986.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 86–21935 Filed 9–26–86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 86–175]

Reimbursable Service; Excess Cost of Preclearance Operation

September 23, 1986.

This is to provide notice that excess preclearance costs previously published in Federal Register, Vol. 51, No. 160/Tuesday, August 19, 1986/Pg. 29627/are revised. Pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation determined to be as set forth below and will be effective with the pay period beginning August 31, 1986.

Installation	Biweekly excess cost
Montreal, Canada	$15,904
Toronto, Canada	27,811
Kindley Field, Bermuda	10,140
Nassau, Bahama Islands	23,532
Vancouver, Canada	10,879
Winnipeg, Canada	2,391
Freeport, Bahama Islands	16,455
Calgary, Canada	6,631
Edmonton, Canada	4,125

D. Lynn Gordon,

Acting Comptroller.

[FR Doc. 86–21953 Filed 9–26–86; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Inventory of Commercial Activities and Schedule of A–76 Reviews

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of person to contact for further information.

SUMMARY: This notice provides the name and telephone number of the individual to be contacted for further information with respect to the Internal Revenue Service inventory of commercial activities and schedule of A–76 reviews. The inventory and schedule was published in the Federal Register on Monday, September 22, 1986 (51 FR 33686). The A–76 Coordinator, Edwin Murphy, telephone 202–566–4273 (not a toll-free number), is the person who should be contacted for any additional information with respect to the inventory and schedule.

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 86–21955 Filed 9–26–86; 8:45 am]

BILLING CODE 4830-01-M

Internal Revenue Service Inventory of Commercial Activities and Schedule of A–76 Reviews

Correction

In FR Doc. 86–21441 beginning on page 33686 in the issue of Monday, September 22, 1986, make the following correction: On Page 33687, in the sixth column of the table, delete the words "Labor services".

BILLING CODE 1505-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Age of Bruegel: Netherlands Drawings of the Sixteenth Century; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Age of Bruegel: Netherlandish Drawings of the Sixteenth Century" (see list) [1] imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the National Gallery of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, D.C., beginning on or about November 7, 1986, to on or about January 18, 1987; and at the Pierpont Morgan Library, New York City, beginning on or about January 29, 1987, to on or about April 5, 1987, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: September 25, 1986.

C. Normand Poirier,

Acting General Counsel.

[FR Doc. 86-22114 Filed 9-26-86; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, 301 4th Street, S.W., Washington, D.C. 20547.

Culturally Significant Objects Imported for Exhibition; Alexander Archipenko: A Centennial Tribute; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Alexander Archipenko: A Centennial Tribute" (see list) [1] imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the various foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, D.C., beginning on or about November 16, 1986, to on or about February 16, 1987, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: September 25, 1986.

C. Normand Poirier,

Acting General Counsel.

[FR Doc. 86-22115 Filed 9-26-86; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, 301 4th Street, S.W., Washington, D.C. 20547.

Sunshine Act Meetings

Federal Register
Vol. 51, No. 188
Monday, September 29, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 33696.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, September 30, 1986.

CORRECTION IN THE MEETING STATUS:

STATUS: Part will be open to the public and part will be closed to the public.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer Executive Secretariat, at (202) 634-6748.

Dated and Issued: September 25, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86-22078 Filed 9-25-86; 3:14 pm]

BILLING CODE 6750-06-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 51, No. 187.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time), Monday, October 6, 1986.

CHANGE IN THE MEETING:

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operation: Resolution

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Proposed Commission Decision

Note.—Any matter not discussed or concluded may be carried over to a later meeting. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634-6748.

Dated and Issued: September 25, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86-22079 Filed 9-25-86; 3:42 pm]

BILLING CODE 6750-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, September 23, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of recommendations regarding the Corporation's assistance agreements with insured banks.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(9)(B), and (c)(10)).

Dated: September 24, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-22047 Filed 9-25-86; 11:18 am]

BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 9/19/86, 51 FR 33831.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 25, 1986, 10:00 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CAG-7
TA86-3-42-000, Transwestern Pipeline Company
CAG-55
RP86-94-005, Sea Robin Pipeline Company

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22076 Filed 9-25-86; 3:04 pm]

BILLING CODE 6717-02-M

5

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, September 25, 1986, at 450 5th Street, NW., Washington, DC, to consider the following items.

Ligitation matter.
Settlement of injunctive action.

Commissioner Cox, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

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: David Mahaffey at (202) 272-2091.

Jonathan Katz,

Secretary.

September 23, 1986.

[FR Doc. 86-22058 Filed 9-25-86; 1:05 pm]

BILLING CODE 8010-01-M

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TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 184 (September 23, 1986).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m. (EDT), Thursday, September 25, 1986.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTERS: The following items are added to the previously announced agenda:

C. Power Items

4. Letter Agreement covering arrangements for establishement of temporary 13-kV emergency connection between TVA and East Kentucky Power Cooperative.

F. Unclassified

9. Supplement to Interagency Agreement No. TV-69546A with the U.S. Forest Service, Department of Agriculture, providing for assistance with mapping activities in connection with pilot test being conducted by the Forest Service in the George Washington National Forest in Virginia.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: September 24, 1986.

Approved.

C.H. Dean, Jr.,

Director and Chairman.

John B. Waters,

Director.

[FR Doc. 86-22056 Filed 9-25-86; 12:47 pm]

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federal register

Monday
September 29, 1986

Part II

Environmental Protection Agency

40 CFR Parts 117 and 302
Superfund Programs; Reportable Quantity Adjustments; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 117 and 302

[SW H-FRL 3032-9]

Superfund Programs; Reportable Quantity Adjustments

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Sections 103(a) and 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") require that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities ("RQs") immediately notify the National Response Center ("NRC") of the release. Section 102(b) of CERCLA establishes RQs for releases of designated hazardous substances at one pound, unless other reportable quantities were established pursuant to section 311(b)(4) of the Clean Water Act ("CWA").

Section 102(a) authorizes the Administrator of the U.S. Environmental Protection Agency ("EPA") to adjust these RQs, and to designate as hazardous substances, substances which when released into the environment may present substantial danger to the public health or welfare or the environment. A final rule published on April 4, 1985 (50 FR 13456) adjusted RQs for 340 hazardous substances. In a Notice of Proposed Rulemaking ("NPRM") also published on April 4, 1985, the Agency proposed adjusted RQs for 105 additional hazardous substances (50 FR 13514). This rule finalizes the RQ adjustments proposed in the April 4, 1985 NPRM.[1] By making these adjustments, the Agency will be able to focus its resources on those releases which are most likely to pose potential threats to public health, welfare, and the environment. In addition, these adjustments will relieve the regulated community of the burden of reporting releases which are unlikely to pose such threats. Today's rule adjusts not only the statutory one-pound RQs, but also the RQs established pursuant to section 311(b)(4) of the CWA.

When there is a release of a hazardous substance in a quantity equal to or greater than its RQ as listed in 40 CFR 302.4 (as amended by today's final rule), the person in charge of the vessel or facility must immediately notify the NRC. The toll-free number of the NRC is listed below under "ADDRESSES."

EFFECTIVE DATE: December 29, 1986.

ADDRESSES: The toll-free telephone number of the National Response Center is 1–800/424–8802; in the Washington, DC metropolitan area, the number is 1–202/426–2675.

Docket

Copies of materials relevant to this rulemaking are contained in Room LG at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The docket is available for inspection between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jack Kooyoomjian, Senior Project Officer, Response Standards and Criteria Branch, Emergency Response Division (WH–548B), U. S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or the RCRA/Superfund Hotline at 1–800/424–9346, in Washington, DC, at 1–202/382–3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction

A. Statutory Authority

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96–510), 42 U.S.C. 9601 et seq. ("Superfund," "CERCLA," or "the Act"), enacted on December 11, 1980, establishes broad federal authority to deal with releases or threats of releases of hazardous substances from vessels and facilities. The Act defines a set of "hazardous substances" chiefly by reference to other environmental statutes (see section 101(14)); currently, there are 717 CERCLA hazardous substances. The Administrator of the U.S. Environmental Protection Agency ("EPA") may designate additional hazardous substances pursuant to section 102 of CERCLA.

The Act requires that the person in charge of a vessel or facility immediately notify the National Response Center ("NRC") as soon as that person has knowledge of a release of a hazardous substance in an amount equal to or greater than the reportable quantity ("RQ") for that substance (sections 103 (a) and (b)).[2] In certain limited situations, when direct reporting to the NRC is not practicable, the releaser may report to the nearest Coast Guard- or EPA-predesignated On-Scene Coordinator ("OSC"). If it is not possible to notify the NRC or predesignated OSC immediately, reports may be made immediately to the nearest Coast Guard unit, provided that the releaser notifies the NRC as soon as possible (40 CFR 300.63(b)). Section 102(b) of CERCLA establishes RQs for releases of designated hazardous substances at one pound, unless other reportable quantities were assigned under section 311 of the Clean Water Act ("CWA"). Section 102(a) authorizes EPA to adjust all of these reportable quantities by regulation.

A major purpose of the section 103(a) and (b) notification requirements is to alert the appropriate government officials to releases of hazardous substances that may require a federal response action to protect public health and welfare and the environment. Under CERCLA section 104, the federal government may respond whenever there is a release or a substantial threat of a release into the environment of a hazardous substance. Response activities are to be taken, to the extent practicable, in accordance with the National Contingency Plan (40 CFR Part 300), which was originally developed under the CWA, and which has been revised pursuant to section 105 to reflect the responsibilities and authority created by CERCLA. EPA emphasizes that a hazardous substance release notification is merely a trigger for informing the government of a release so

[1] The Agency has decided to retain the statutory one-pound RQs for lead, pentachloroethane, and methyl chloride, pending analysis of their potential carcinogenicity. Therefore, today's rule adjusts RQs for 102 of the 105 hazardous substances for which the April 4, 1985 NPRM proposed adjusted RQs. For further discussion of this issue, see Section III.C. of this preamble.

[2] A release into the environment of a substance which is not listed as a CERCLA hazardous substance but which rapidly forms a CERCLA hazardous substance upon release, is subject to the notification requirements of section 103. If the amount of the hazardous substance formed as such a reaction product equals or exceeds the RQ for that substance, the release must be reported to the NRC.

that the need for a federal removal or remedial action can be evaluated by the appropriate federal personnel and any necessary action undertaken in a timely fashion. Federal personnel will evaluate all reported releases, but will not necessarily initiate a removal or remedial action in response to all reported releases, because the release of a reportable quantity of a hazardous substance will not necessarily pose a hazard to public health or welfare or the environment.

Section 103(b) authorizes penalties, including criminal sanctions, for persons in charge of vessels or facilities who fail to report releases of hazardous substances which equal or exceed reportable quantities. Any person in charge of a vessel or facility who, as soon as that person has knowledge of a reportable release, fails to report the release pursuant to section 103(a) or (b) shall, upon conviction, be fined no more than $10,000 or imprisoned for not more than one year, or both. Notifications received under section 103(a) or information obtained by such notice cannot be used against any reporting person in any criminal case, except a prosecution for perjury or for giving a false statement.

B. Background of this Rulemaking

On May 25, 1983, EPA proposed a rule (48 FR 23552) to clarify procedures for reporting releases of CERCLA hazardous substances and to adjust reportable quantities for 387 of the then 696 CERCLA hazardous substances.[3] The May 25, 1983 NPRM also listed, for the first time, the "hazardous substances" identified under section 101(14) of CERCLA. In the NPRM, EPA discussed in detail the CERCLA notification provisions (including the persons required to notify the NRC of a release, the hazardous substances for which notification is required, the types of releases subject to the notification requirements, and the exemptions from these requirements), the methodology and criteria used to adjust the RQ levels, and the RQ adjustments proposed under section 102 of CERCLA and under section 311 of the CWA. On April 4, 1985, EPA promulgated a final rule (50 FR 13456), that clarified reporting procedures and finalized RQ adjustments for 340 hazardous substances, including 21 waste streams.

The April 4, 1985 Federal Register also contained an NPRM proposing RQ adjustments for 105 additional CERCLA hazardous substances, including seven waste streams (50 FR 13514). In addition, the April 4, 1985 NPRM clarified reporting requirements for substances exhibiting the RCRA characteristics of ignitability, corrosivity, and reactivity ("ICR") (40 CFR 261.21–261.23).[4] The adjusted RQ for ICR substances, discussed below in Section III.D., becomes effective with today's rule. In preparing today's final rule, the Agency has considered carefully the comments received in response to the April 4, 1985 NPRM.

In finalizing these RQ adjustments, today's rule amends Table 302.4 of 40 CFR 302.4 and, consistent with 40 CFR 117.3, applies not only to CERCLA RQs, but also to the RQs established for hazardous substances under section 311(b)(4) of the CWA. Both Table 302.4 and Table 117.3 are revised and published as a part of this rule. Section II of this preamble discusses key issues relating to RQ adjustments and CERCLA notification requirements that are not resolved in today's final rule. Section III discusses the RQ adjustments and the methodology used in making these adjustments. Section IV addresses RQ adjustments under section 311 of the Clean Water Act. Section V provides a summary of the analyses supporting this rule.

It is important to note that other provisions of CERCLA may apply even where the statute does not require notification. Therefore, nothing in this rulemaking should be interpreted as reflecting Agency policy or the applicable law with respect to other provisions of the Act. For example, a party responsible for a release (except federally permitted releases and specifically exempted substances or entities), is liable for the costs of cleaning up that release and for any natural resource damages caused by the release, even if the release is not subject to the notification requirements of sections 103 (a) and (b). Similarly, proper reporting of a release in accordance with sections 103 (a) and (b) does not preclude liability for cleanup costs. The fact that a release of a hazardous substance is properly reported or that it is not subject to the notification requirements of sections 103(a) and (b) will not prevent EPA or other government agencies from taking response actions under section 104, seeking reimbursement from responsible parties under section 107, or pursuing an enforcement action against responsible parties under section 106. Note also that this rule does not affect hazardous substance reporting requirements imposed by other regulations and statutes (except the CWA—see Section IV below).

Neither today's final rule nor the April 4, 1985 final rule addresses the designation of hazardous substances which are not designated under the statutes listed in CERCLA section 101(14). The Agency has conducted several preliminary economic and technical analyses on this subject (see 48 FR 23603), and in an Advance Notice of Proposed Rulemaking (ANPRM), also published on May 25, 1983, invited public comment. EPA has carefully reviewed the comments received. The Agency's designation policy may be the subject of a future rulemaking.

II. Key Issues Not Addressed in this Rule

A. Continuous Releases

Under sections 103 (a) and (b) of CERCLA, no distinction is made between episodic and continuous releases. Section 103(f)(2), however, provides reduced reporting requirements for certain "continuous" releases. Releases may be reported less frequently than under sections 103 (a) and (b) if they are "continuous," "stable in quantity and rate," and notification has been given under sections 103 (a) and (b) "for a period sufficient to establish the continuity, quantity, and regularity" of the release. Notification must still be given "annually, or at such time as there is any statistically significant increase" in the quantity of the hazardous substance being released. Thus, instead of reporting every release as it occurs, certain continuous releases may be reported less often.

In the May 25, 1983 proposal, EPA noted that enforcement efforts would be focused on episodic rather than continuous releases. The Agency presented alternative interpretations of

[3] Since the May 25, 1983 NPRM, 21 additional hazardous substances have been identified pursuant to listings under RCRA and the CAA: Waste stream F024 under section 3001 of the Resource Conservation and Recovery Act (RCRA) (49 FR 5308); coke oven emissions under section 112 of the Clean Air Act (CAA) (49 FR 29850); waste streams F020, F021, F022, F023, F026, F027, and F028 under section 3001 of RCRA (50 FR 1978); waste streams K111, K112, K113, K114, K115, and K116 under section 3001 of RCRA (50 FR 42936); o-toluidine and p-toluidine under section 3001 of RCRA (50 FR 42936); waste streams K117, K118, and K136 under section 3001 of RCRA (51 FR 5327); and 2-ethoxyethanol under section 3001 of RCRA (51 FR 0537). None of the above-listed substances, with the exception of two (waste stream F024 and coke oven emissions), have been previously listed in Table 302.4. These 19 substances are therefore listed in the table in today's rule. The RQs for these substances, however, are not adjusted by today's rule and will retain their statutory one-pound RQs until adjusted in future rulemakings.

[4] Substances exhibiting the characteristic of extraction procedure (EP) toxicity were not at issue because the chemicals for which the EP toxicity test is designed are all assigned specific RQs under 40 CFR 302.4.

which releases could be included within the continuous release definition, and discussed a possible notification scheme for releases determined to be within the definition.

The Agency received more than 40 comments in response to the discussion of continuous releases in the May 25, 1983 NPRM. EPA is in the process of developing continuous release reporting regulations to clarify this reduced reporting requirement.

Although the continuous release reporting issue was not within the scope of the April 4, 1985 NPRM, the Agency received one additional comment on this issue. The commenter argued that because the scope of the definition for continuous releases relates directly to whether certain RQs are appropriate, the comment period for RQ adjustments in the April 4, 1985 NPRM should be reopened when the continuous release reporting issue is finally resolved. EPA has rejected this argument, however, because the Agency considers the issues of appropriate RQ levels and the scope of the reduced reporting requirement for continuous releases to be unrelated. Whether a given release qualifies as "continuous" has no bearing on the appropriate RQ for a hazardous substance determined according to a specific set of scientific criteria.

B. Federally Permitted Releases

One of the exemptions from section 103(a) reporting requirements is for "federally permitted releases." The definition of "federally permitted release" in CERCLA section 101(10) specifically identifies releases permitted under certain other state or federal programs.

In the May 25, 1983 NPRM, EPA explained its interpretation of each type of release exempted by the definition of "federally permitted release." The Agency received many comments on the scope of the federally permitted release exemption, most of which urged a broad interpretation of one or more of the federally permitted releases. Due to the complexity of the issues involved, the Agency decided to examine further the scope of the federally permitted release exemption.

Although the April 4, 1985 NPRM did not address the issue of federally permitted releases, we received a comment on this issue which was analogous to the comment received on continuous releases. The commenter argued that the comment period for RQ adjustments proposed in the April 4, 1985 NPRM should be reopened when the issue of federally permitted releases is finally resolved. The Agency has rejected this argument for the same reason it rejected the commenter's argument as it applied to continuous releases. Whether the release of a hazardous substance that exceeds an RQ will, under certain prescribed circumstances, be exempt from reporting requirements because it is "federally permitted," has no bearing on the objective determination of the appropriate RQ level for the substance.

The Agency is evaluating the federally permitted release definition and intends to address the issue in a future rulemaking.

C. Radionuclide RQs

Radionuclides are hazardous substances under CERCLA because they are designated as a hazardous air pollutant under section 112 of the CAA. The preambles to the May 25, 1983 NPRM and the April 4, 1985 final rule recognize that the statutory RQ of one pound may not be appropriate for radionuclides. Radionuclides are also not addressed in today's final rule. The Agency will address the comments received in response to the earlier rulemaking efforts, as well as other radionuclide RQ issues, in a future rulemaking when our analysis, now ongoing, is completed.

D. Potential Carcinogen RQs

As discussed in Section III below, today's final rule proposes no RQ adjustments for substances with one-pound statutory RQs which will be ranked for the primary criterion of potential carcinogenicity. The ranking methodology for such substances will be discussed in detail in an upcoming NPRM in which the Agency will propose to adjust RQs for potentially carcinogenic substances.

III. Reportable Quantity Adjustments

A. Introduction

Until adjusted by regulation under section 102(a), CERCLA section 102(b) establishes a reportable quantity of one pound for hazardous substances other than those hazardous substances with RQs established under section 311 of the Clean Water Act (CWA); for these latter substances, section 102(b) adopts the established CWA RQs. This rulemaking adjusts the statutory RQs based upon specific scientific and technical criteria that relate to the possibility of harm from the release of a hazardous substance in a reportable quantity. These RQ adjustments, therefore, enable the Agency to focus its resources on those releases which are most likely to pose potential threats to public health and welfare and the environment. Such RQ adjustments will also relieve the regulated community and emergency response personnel from the burden of making and responding to reports of releases which are unlikely to pose such threats.

In this rule, RQs for 102 hazardous substances are adjusted, including seven of the waste streams that were not assigned adjusted RQs in the April 4, 1985 final rule. In today's rule, EPA raises the RQs of 31 specific hazardous substances, lowers the RQs of 30 specific hazardous substances, and leaves the RQs of 34 specific hazardous substances at the levels originally established by CERCLA (or by CWA section 311). This rule also raises the RQs of the seven waste streams. In addition, today's final rule adjusts to 100 pounds the RQ for releases of RCRA unlisted solid wastes (as defined in 40 CFR 261.2), which exhibit the RCRA characteristics of ignitability, corrosivity, or reactivity but which are not "wastes" (and thus not CERCLA hazardous substances) until after they are released and are not cleaned up for repackaging, reprocessing, recycling, or reuse (see 40 CFR 302.4(b)). The remaining 275 hazardous substances not addressed by today's final rule are being evaluated for potential carcinogenicity and/or chronic toxicity. Analyses of these hazardous substances are nearly complete and adjusted RQs based on potential carcinogenicity and/or chronic toxicity will be proposed in an NPRM in the near future.

The primary purpose of notification is to ensure that releasers notify the federal government so that federal personnel can assess the need to respond to the release. The different RQ levels do not reflect a determination that a release of a CERCLA substance will be hazardous at the RQ level and not hazardous below that level. EPA has not made such a determination because the Agency has found that the actual hazard will vary with the unique circumstances of the release, and extensive scientific data and analysis would be necessary to determine the hazard presented by each substance under a number of possible circumstances. Instead, the RQs are designed to be a trigger for notification and reflect the Agency's judgment that the federal government should be notified of certain releases to which a federal response might be necessary. The reportable quantities represent a determination only of possible or potential harm, not that releases of a particular amount of a hazardous substance necessarily will be harmful to public health or welfare or the environment.

Because CERCLA's RQ adjustment methodology differs from that used pursuant to section 311 of the Clean Water Act, some of the RQs set today are not the same as those initially promulgated under the CWA. The April 4, 1985 final rule (50 FR 13456) amended 40 CFR 117.3 (see 44 FR 50776, August 29, 1979), to make RQs adjusted under CERCLA the applicable RQs for purposes of CWA section 311. Today's rule therefore adjusts not only CERCLA RQs, but, where applicable, CWA RQs as well. A person in charge need not report a single release twice in order to satisfy CERCLA and CWA reporting requirements; one report to the NRC suffices.

B. Summary of the Methodology Underlying the Reportable Quantity Adjustments

The Agency has wide discretion in adjusting the statutory RQs for hazardous substances under CERCLA.[5] Administrative feasibility and practicality are important considerations. The Agency's selected methodology for adjusting RQs begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each designated hazardous substance. The intrinsic properties examined—called "primary criteria"—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity. (For the purposes of this rule, chronic toxicity—referred to as "other toxic effects" in the May 25, 1983 NPRM—is defined as toxicity resulting from repeated or continuous exposure to either a single dose or multiple doses of a hazardous substance.)

The Agency ranks each intrinsic property on a five-tier scale, associating a specific range of values on each scale with a particular RQ value. This five-tier scale uses the five RQ levels of 1, 10, 100, 1000, and 5000 pounds originally established pursuant to CWA section 311 (see 40 CFR Part 117 and 44 FR 50776). Each substance receives several tentative RQ values based on its particular properties.[6] The lowest of all of the tentative RQs becomes the "primary criteria RQ" for that substance.

The Agency received several comments on its general RQ adjustment methodology. One commenter supported the Agency's decision to continue to use the five-tier system for setting RQs developed under CWA section 311. Other commenters objected to EPA's use of the primary criteria of chronic toxicity and potential carcinogenicity to adjust RQs. One of these commenters suggested that the methodology used to evaluate and assign chronic toxicity rankings should employ data based on routes of exposure and pharmacokinetic parameters when converting animal doses to human doses. The current approach assumes 50 percent absorption from inhalation exposures and 100 percent absorption from oral exposures. The Agency decided to use these assumptions instead of reviewing absorption and pharmacokinetic data because the purpose of RQ adjustments is to establish levels at which the federal government should be notified of releases, not to develop lengthy and complex risk assessment scenarios. The Agency has previously considered and rejected the use of risk assessment scenarios to adjust RQs (see the April 4, 1985 final rule at 50 FR 13456).

The same commenter also requested an explanation of the Agency's decision to estimate chronic exposure by reducing subchronic effect levels by a factor of 10 or less. The Agency believes that this approach is well supported by experimental evidence which shows that the ratio of subchronic levels to levels derived after chronic exposure is 2.0 or less for more than half of the chemicals studied. Approximately 96 percent of these ratios are below a value of 10. This empirically derived relationship between chronic and subchronic effect levels indicates that it is reasonable to employ a 10-fold uncertainty factor to account for differences between subchronic and chronic effect levels. For a detailed discussion of the chronic toxicity methodology, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, (Appendix B), March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Another commenter opposed adjusting RQs upwards because many of the 105 substances for which adjusted RQs were proposed in the April 4, 1985 NPRM had not been evaluated adequately for potential carcinogenic or chronically toxic effects. This commenter suggested that statutory RQs be retained until it is proven that a designated hazardous substance does not exhibit either chronic toxicity or potential carcinogenicity, as applicable. Although the Agency retains the statutory RQs if it has evidence indicating chronic toxicity or potential carcinogenicity pending more detailed analysis, the Agency does not delay RQ adjustment until it has evidence which affirmatively proves the absence of such characteristics. To attempt to affirmatively prove the absence of chronic toxicity or potential carcinogenicity, even if technically possible, would greatly strain Agency resources with little added benefit to human health and environmental protection. The data available to the Agency provide no clear evidence of chronic toxicity or potential carcinogenicity for any of the substances referred to by the commenter. However, the Agency will readjust RQs as necessary in the future to take into account new information concerning the hazard of designated substances.

For a more detailed discussion of the primary criteria, including chronic toxicity, see the preamble of the May 25, 1983 NPRM (48 FR 23562–23565), the preamble of the April 4, 1985 final rule adjusting reportable quantities (50 FR 13456, section V.D.1), and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

After the primary criteria RQs are assigned, substances are further evaluated for their susceptibility to certain degradative processes. These natural degradative processes are biodegradation, hydrolysis, and photolysis, or "BHP." These processes tend to reduce the relative potential for harm to public health and welfare and the environment of many hazardous substance releases. If hazardous substances have primary criteria RQs

[5] As Senate Report No. 848, 96th Congress, Second Session (1980) notes at page 29: "In determining reportable quantities under this paragraph [section 3(a)(2) of S.1480], the President may consider any factors deemed relevant to administering the reporting requirements or the President's other responsibilities under this Act."

[6] If available evidence shows that a hazardous substance hydrolyzes into a reaction product that is more hazardous than the original substance, the primary criteria are applied to the more hazardous product rather than to the original substance to determine the tentative RQ values for the original substance. For example, substances known to generate hydrogen sulfide or phosphine upon hydrolysis are assigned primary criteria RQs on the basis of these degradation products. In the April 4, 1985 NPRM, the primary criteria RQs of four substances (ammonium bifluoride, lead sulfide, sodium bifluoride, and zinc phosphide) were based on the application of the primary criteria to the more hazardous reaction products rather than to the original substances. In today's final rule, lead sulfide has been removed from the group of substances whose RQs are based on application of the primary criteria to reaction products. For a discussion of the reasons the Agency removed lead sulfide from this group, see Section III. C.

already at the maximum assignable level of 5000 pounds or are found to be bioaccumulative, environmentally persistent, highly reactive (or otherwise unusually hazardous), or degradable to more hazardous products, they are not eligible for a one-level RQ increase on the basis of BHP. On the other hand, if analysis indicates that an eligible hazardous substance degrades relatively rapidly to a less harmful substance or compound through one or more of these processes when it is released into the environment, the primary criteria RQ is raised one level on the basis of BHP. The single RQ assigned to each hazardous substance on the basis of the primary criteria and BHP becomes the adjusted RQ for the substance. Under no circumstances may the RQ for a substance be raised more than one level based on BHP.

For a more detailed discussion of the BHP criteria and their use in combination with the primary criteria, see the preamble of the May 25, 1983 NPRM (48 FR 23565), the preamble of the April 4, 1985 final rule adjusting reportable quantities (50 FR 13456, sections V.C.1. and V.D.2.) and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

C. Substances for Which RQs Are Adjusted

This section describes the process EPA used to select the 102 substances for which today's rule adjusts RQs. As described below, these 102 substances have been assigned adjusted RQs on the basis of the five primary criteria other than potential carcinogenicity. The adjustments are as follows: 28 hazardous substances were adjusted on the basis of chronic toxicity only, 13 hazardous substances on the basis of chronic toxicity and at least one other primary criterion, and 61 hazardous substances on the basis of primary criteria other than chronic toxicity.

Prior to the May 25, 1983 NPRM, the Agency identified a number of CERCLA hazardous substances that exhibited chronic toxicity or potential carcinogenicity (or both). EPA identified the chronically toxic substances using a variety of EPA background documents, reports prepared by state agencies, and other sources. EPA identified the potential carcinogens using the Monographs of the International Agency for Research on Cancer, the First, Second, and Third Annual Reports on Carcinogens of the National Toxicology Program, U.S. Department of Health and Human Services, final Agency determinations published in the Federal Register identifying a substance as a potential carcinogen, and determinations by the Agency's Office of Health and Environmental Assessment that a substance may be a potential carcinogen based on either published or unpublished data. Lists of these substances were submitted to EPA's Environmental Criteria and Assessment Office (ECAO) for further chronic toxicity analysis and to EPA's Carcinogen Assessment Group (CAG) for further carcinogenicity analysis.

For further information concerning the selection of hazardous substances for ECAO and CAG review, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Of the 102 hazardous substances whose RQs are adjusted by today's rule, 95 were evaluated for chronic toxicity by ECAO. In addition, the Agency initially identified twelve of the 102 hazardous substances for evaluation as potential carcinogens.[7] CAG's subsequent evaluation of these twelve hazardous substances found no substantive evidence that any of the twelve are potential carcinogens. Therefore, the RQs of these twelve substances have been adjusted using available data on the other five primary criteria. Of the 105 hazardous substances for which adjusted RQs were proposed in the April 4, 1985 NPRM, the Agency subsequently identified twelve additional hazardous substances which may be potential carcinogens.[8] Seven of these substances (lead chloride, lead nitrate, tetraethyl lead, cresols, 1,3-dichloropropene, dichloropropane-dichloropropene (mixture), and captan) currently have statutory RQs established under the CWA which will be adjusted downwards or remain the same as a result of today's rule. The RQs for another two of these twelve substances, waste stream K052 and waste stream F004, are based on their respective constituents, tetraethyl lead and cresols. The RQs for waste stream K052 and waste stream F004 will be adjusted today to correspond to the RQs for tetraethyl lead and cresols, respectively. The one-pound statutory RQs for the three remaining substances—lead, pentachloroethane, and methyl chloride—will be retained, pending the outcome of their evaluation for potential carcinogenicity. The Agency will evaluate lead chloride, lead nitrate, tetraethyl lead, waste stream K052, cresols, waste stream F004, 1,3-dichloropropene, dichloropropane-dichloropropene (mixture), and captan for potential carcinogenicity and, if necessary, readjust their final RQs based on potential carcinogenicity, in a future rulemaking action.

The portion of Table 302.4 printed in this rule provides a list of all CERCLA hazardous substances for which adjusted RQs are established by this rule. The table indicates both the RQ level originally established by statute and the adjusted RQ for each substance. In addition, the table includes nineteen hazardous substances not previously published in the table (see note 3 above).

Several commenters requested that the RQs of various hazardous substances be increased from the levels proposed in the April 4, 1985 NPRM. The Agency agrees with three commenters who suggested that the proposed RQ of 100 pounds for lead sulfide be raised to 5000 pounds on the grounds that lead sulfide is very insoluble and its aquatic toxicity is low. The proposed 100-pound RQ for lead sulfide was based in part on the generalization that soluble sulfides hydrolyze in water to form hydrogen sulfide whose RQ is 100 pounds. The commenters objected to the use of this methodology for setting the RQ for lead sulfide on the basis that lead sulfide is highly insoluble. The Agency agrees that lead sulfide is too insoluble to produce significant amounts of hydrogen sulfide, even in highly acidic solutions. Accordingly, the RQ of lead sulfide in the final rule will be raised from its proposed value of 100 pounds in the April 4, 1985 NPRM to 5000 pounds, based on its aquatic toxicity, the same value it had under section 311 of the Clean Water Act.

One commenter suggested that the RQ of chloroethane be increased to 5000 pounds from the proposed level of 100 pounds because "it is the least toxic of all the chlorinated hydrocarbons." Although the quoted statement is true, the Agency proposed a 100-pound RQ for chloroethane, not because of its

[7] The twelve substances are: acenaphthene, acenaphthylene, anthracene, benzo(ghi)perylene, delta-BHC, chromic acetate, chromic sulfate, ferric dextran, fluoranthene, fluorene, phenanthrene, and pyrene. (The Agency has proposed in an NPRM published November 8, 1985, to delist ferric dextran as a hazardous waste under RCRA and to delete it from the list of CERCLA hazardous substances under section 102(a) (see 50 FR 46468)).

[8] These twelve substances are lead, lead chloride, lead nitrate, tetraethyl lead, waste stream K052, pentachloroethane, methyl chloride, cresols, waste stream F004, 1,3-dichloropropene, dichloropropane-dichloropropene (mixture), and captan.

toxicity, but because of its ignitability (low flash point of −58 °F and low boiling point of 54 °F). Therefore, the proposed RQ of 100 pounds for chloroethane will be retained in the final rule.

Other commenters also requested increases in the RQs of various hazardous substances. But as was the case with the suggested increase for chloroethane, these other increases would be inconsistent with the overall RQ adjustment methodology and characteristics of the respective substances.

One commenter recommended that the RQs of thirteen hazardous substances proposed in the April 4, 1985 NPRM be lowered on the basis of aquatic toxicity data provided by the commenter. Some of the data are based on aquatic toxicity tests that used species and test procedures which deviate from the standard species and procedures used by the Agency for RQ adjustment purposes. For the most part, the suggested RQ adjustments were based on such non-standard species and procedures and therefore are not accepted by the Agency.

For two substances (pentachlorobenzene and phorate), however, the commenter used data based on the standard 96-hour LC50 aquatic toxicity test and a standard species, the bluegill. The new aquatic toxicity data for pentachlorobenzene justify lowering the RQ of that substance from the proposed level of 1000 pounds to 10 pounds. The new aquatic toxicity data for phorate support a one-pound RQ which should be raised one RQ level to 10 pounds based on BHP. The Agency based the proposed 1000-pound RQ for phorate on mammalian toxicity data which supported a 100-pound RQ. Because phorate is hydrolyzed readily, the RQ previously was raised one level to 1000 pounds. In sum, the RQs for both pentachlorobenzene and phorate will be set at 10 pounds in today's final rule, instead of 1000 pounds, as they were in the April 4, 1985 NPRM.

Although not specifically requested by the commenter, the RQ of a third hazardous substance, waste stream K039, is also being lowered in the final rule. K039 is a filter cake resulting from the production of phorate and thus contains phorate as a constituent. Because the RQ of a waste stream is based upon the lowest RQ of any of its hazardous constituents, the appropriate RQ for K039 should also be 10 pounds in light of the new aquatic toxicity data on phorate. Accordingly, the RQ for K039 will be lowered from its 100-pound level in the April 4, 1985 NPRM to 10 pounds to make its RQ consistent with the new RQ for its constituent, phorate.

D. ICR Substances

As was stated in the April 4, 1985 NPRM, the obligation to report releases into the environment of substances exhibiting the Resource Conservation and Recovery Act [RCRA] characteristics of ignitability, corrosivity, or reactivity [ICR] had been the subject of some confusion. Under section 103(a) of CERCLA, the person in charge of a vessel or facility must notify the NRC of the release of a "hazardous substance." The term "hazardous substance," as defined by section 101(14) of CERCLA, includes substances designated pursuant to section 102 of CERCLA as well as substances designated by other federal environmental legislation, including RCRA. CERCLA section 101(14)(C) designates as a CERCLA hazardous substance "any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of [RCRA]." The "characteristics identified" under RCRA include ignitability, corrosivity, and reactivity. Therefore, the release of a non-designated substance exhibiting an ICR characteristic is the release of a hazardous substance if the substance is a waste.[9]

The April 4, 1985 final rule established a 100-pound RQ for ICR substances which are wastes prior to release. However, due to confusion with respect to reporting requirements for ICR substances which become wastes only after release, the Agency proposed in the NPRM, published concurrently with the April 4, 1985 final rule, to apply the same RQ to the latter type of ICR substances. The reportable quantity adjustment of 100 pounds for releases of ICR substances which become wastes only after release becomes effective with today's final rule.

In the April 4, 1985 NRPM, the Agency acknowledged that CERCLA criminal penalties attach only if the person in charge knew or should have known that the released material was a hazardous substance, and recognized that transporters may not be aware that substances they are carrying exhibit ICR characteristics. Several commenters suggested that this lack of knowledge may extend to others in the industrial chain such as manufacturers, marketers, and "other handlers" of these materials. However, regardless of the general likelihood that any class of persons may or may not have the required level of knowledge, enforcement decisions will be made on a case-by-case basis upon the facts present in a particular situation.

With respect to ICR substances which are not wastes prior to release, the April 4, 1985 NPRM makes a distinction between those substances which upon release are spilled and not cleaned up or are cleaned up only for eventual disposal, and those which are released and immediately cleaned up for repackaging, reprocessing, recycling, or reuse. Because the former substances are wastes, their release must be reported if it equals or exceeds an RQ of 100 pounds. The latter substances are not wastes and therefore their release need not be reported pursuant to CERCLA section 103. For purposes of clarification, if an ICR substance which is not a waste prior to release is released and only partially cleaned up, the release need be reported only if the amount not recovered equals or exceeds an RQ (i.e., 100 pounds). If the amount spilled and not recovered (or recovered only for eventual disposal) is less than 100 pounds, there has been no release of an RQ or more of a hazardous substance and the reporting requirements of section 103, therefore, are not triggered.

Several commenters questioned the legality and practicality of requiring reporting of non-designated ICR substances which become wastes only after their initial release. However, as stated above, CERCLA defines the term "hazardous substance" to include hazardous wastes that exhibit ICR characteristics and thus requires reporting of releases of such wastes. To the extent an ICR substance enters the environment and is not recovered for repackaging, reprocessing, recycling, or reuse, that substance becomes a waste and thus is subject to the reporting requirements of section 103. Moreover, because the environmental impact upon release of such a substance does not depend upon its status as a waste *prior* to release, the Agency believes that, in the interest of protecting human health and the environment, the federal government must be notified of such releases. This notification requirement is consistent with the statutory purpose of section 103(a) because it allows the predesignated On-Scene Coordinator to evaluate the need for a federal response action to the release of a non-designated substance which, due to its ICR characteristics, may be harmful to the

[9] Because CERCLA regulates these unlisted substances by virtue of their classification as RCRA hazardous wastes, the non-designated substance must, of course, also be a solid waste, as defined in 40 CFR 261.2 and not excluded from regulation as a hazardous waste under 40 CFR 261.4(b), for the notification requirements based on ICR characteristics to apply. See 40 CFR 302.4(b).

environment if released in an amount equal to or greater than the 100-pound RQ.

One commenter objected to a 100-pound RQ for non-designated ICR substances which only become wastes after their initial release. The commenter believed that a 100-pound RQ for such substances is unnecessarily stringent and suggested instead a 1000-pound RQ. EPA proposed a 100-pound RQ for these non-designated substances because substances which are wastes *prior* to their initial release and exhibit ICR characteristics have an RQ of 100 pounds. An RQ of 100 pounds was originally proposed for the latter group of substances in the May 25, 1983 NPRM (48 FR 23552). The Agency's rationale for this RQ was that since the constituents of unlisted wastes generally are unknown, it is very difficult to apply the RQ adjustment criteria to such wastes. It is reasonable to assume that, on the average, these wastes will fall within the middle of the five RQ levels (i.e., 100 pounds). The same rationale is equally applicable to ICR substances that become wastes after release. Because the environmental impact of a release of a substance exhibiting an ICR characteristic does not depend on whether that substance was a waste prior to its initial release, the RQ for either type of ICR waste should logically be the same. In addition, the Agency believes that setting the same RQ for both types of releases will ease the reporting burden on the regulated community. For these reasons, EPA will retain a 100-pound RQ for non-designated ICR substances which are not wastes prior to their initial release.

Another commenter believed that adopting an RQ for non-designated ICR substances that do not become wastes until after their release would result in unnecessary reporting of releases associated with bulk liquid tank venting. The Agency notes that, as a general rule, releases from tank venting are in the form of uncontained gases. However, because uncontained gases are not RCRA solid wastes, they are not unlisted hazardous substances under 40 CFR 302.4(b). Therefore, emissions of gases that are not wastes prior to their release and that are associated with bulk liquid tank venting are not subject to the 100-pound RQ for non-designated ICR substances. The release of a *listed* hazardous substance under 40 CFR 302.4(b), however, is subject to notification requirements regardless of the form of the released substance.

IV. Reportable Quantity Adjustments Under Section 311 of the Clean Water Act

The April 4, 1985 final rule (50 FR 13456) amended 40 CFR 117.3 to make reportable quantities adjusted under CERCLA the applicable reportable quantities for notification of discharges of hazardous substances pursuant to Clean Water Act section 311. Thus, the RQ adjustments in this rule apply to both CERCLA and CWA section 311 RQs. Although the April 4, 1985 final rule amended 40 CFR 117.3, Table 117.3, containing adjusted RQs for CWA section 311 substances, was not published at that time. To eliminate discrepancies in adjusted RQs as listed in Table 302.4 (CERCLA) and Table 117.3 (CWA), Table 117.3 is published in today's rule. Reportable quantities under both CERCLA and the CWA are set forth in Table 302.4. Where there is a release of a hazardous substance in a reportable quantity into navigable waters, a single report to the National Response Center by the person in charge will satisfy the notification requirements of both statutes. The one commenter who addressed this issue favored equalizing RQs under CERCLA and CWA. For further discussion of the relationship between CERCLA RQs and CWA section 311 RQs, see the May 25, 1983 NPRM preamble at 48 FR 23569 and the April 4, 1985 final rule preamble at 50 FR 13456.

V. Summary of Supporting Analyses

Executive Order 12291 requires that regulations be classified as major or non-major for purposes of review by the Office of Management and Budget (OMB). According to E.O. 12291, major rules are regulations that are likely to result in:

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

(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.

An economic analysis performed by the Agency, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, shows that today's final rule is non-major, because the rule will result in savings of approximately $1 million annually. Of this amount, about $200,000 annually will be saved by the regulated community (the remainder to be saved by government).

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." This rule adjusts RQs for substances that have a substantially lower total production volume than the substances that received adjusted RQs in the April 4, 1985 final rule. EPA's analysis estimates that the economic effects of both the April 4, 1985 final rule and today's final rule are directly proportional to total production volume. Thus, the impact of today's rule on small entities will be substantially less than the impact of the April 4, 1985 final rule. The analysis of the April 4, 1985 final rule demonstrated that the rule would not have a significant impact on small entities. See the Regulatory Impact Analysis of Reportable Quantity Adjustments Under Sections 102 and 103 of CERCLA, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Therefore, as with the April 4, 1985 final rule, EPA certifies that no Regulatory Flexibility Analysis is necessary for today's rule.

The Information Impact Analysis performed for the April 4, 1985 final rule indicated that that final rule would decrease the paperwork burden imposed on parties other than EPA by about 50,000 hours. Today's RQ adjustments will provide a small additional reduction in the paperwork burden imposed on the regulated community for information collection associated with reporting releases. Because the effect of this rule on the paperwork burden is not only minimal, but also a reduction, EPA has determined that no further Information Impact Analysis need be performed for this final rule.

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. section 3501 et seq., and has assigned OMB control number 2050–0046.

List of Subjects

40 CFR Part 302

Air pollution control, Chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Nuclear materials, Pesticides and pests, Radioactive materials, Reporting and recordkeeping requirements, Superfund, Waste

treatment and disposal, Water pollution control.

40 CFR Part 117

Hazardous substances, Penalties, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 20, 1986.

Lee M. Thomas,

Administrator.

40 CFR Part 302 is amended as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for Part 302 continues to read as follows:

Authority: Sec. 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9602; secs. 311 and 501(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1321 and 1361.

2. Section 302.4 is amended by revising Table 302.4 to read as follows:

§ 302.4 Designation of hazardous substances.

* * * * *

Table 302.4—List of Hazardous Substances and Reportable Quantities

Note—The numbers under the column headed "CASRN" are the Chemical Abstracts Service Registry Numbers for each hazardous substance. Other names by which each hazardous substance is identified in other statutes and their implementing regulations are provided in the "Regulatory Synonyms" column. The "Statutory RQ" column lists the RQs for hazardous substances established by section 102 of CERCLA. The "Statutory Code" column indicates the statutory source for designating each substance as a CERCLA hazardous substance: "1" indicates that the statutory source is section 311(b)(4) of the Clean Water Act, "2" indicates that the source is section 307(a) of the Clean Water Act, "3" indicates that the source is section 112 of the Clean Air Act, and "4" indicates that the source is RCRA section 3001. The "RCRA Waste Number" column provides the waste identification numbers assigned to various substances by RCRA regulations. The column headed "Category" lists the code letters "X", "A", "B", "C", and "D", which are associated with reportable quantities of 1, 10, 100, 1000, and 5000 pounds, respectively. The "Pounds (kg)" column provides the reportable quantity for each hazardous substance in pounds and kilograms.

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Acenaphthene	83329		1*	2		B	100 (45.4)
Acenaphthylene	208968		1*	2		D	5000 (2270)
Acetic acid, thallium(I) salt	563688	Thallium(I) acetate	1*	4	U214	B	100 (45.4)
2-Amino-1-methyl benzene	95534	o-Toluidine	1*	4	U328	X	1# (0.454)
4-Amino-1-methyl benzene	106490	p-Toluidine	1*	4	U353	X	1# (0.454)
Ammonia	7664417		100	1		B	100 (45.4)
Ammonium bifluoride	1341497		5000	1		B	100 (45.4)
Anthracene	120127		1*	2		D	5000 (2270)
Antimony ††	7440360		1*	2		D	5000 (2270)
Benzene, hydroxy-	108952	Phenol	1000	1,2,4	U188	C	1000 (454)
Benzene, pentachloro-	608935	Pentachlorobenzene	1*	4	U183	A	10 (4.54)
Benzene, 1,3,5-trinitro-	99354	sym-Trinitrobenzene	1*	4	U234	A	10 (4.54)
Benzo[j,k]fluorene	206440	Fluoranthene	1*	2,4	U120	B	100 (45.4)
Benzo[ghi]perylene	191242		1*	2		D	5000 (2270)
p-Benzoquinone	106514	1,4-Cyclohexadienedione	1*	4	U197	A	10 (4.54)
delta - BHC	319868		1*	2		X	1 (0.454)
Captan	133062		10	1		A	10# (4.54)
Carbamimidoselenoic acid	630104	Selenourea	1*	4	P103	C	1000 (454)
Carbon bisulfide	75150	Carbon disulfide	5000	1,4	P022	B	100 (45.4)
Carbon disulfide	75150	Carbon bisulfide	5000	1,4	P022	B	100 (45.4)
Carbonic acid, dithallium(I) salt	6533739	Thallium(I) carbonate	1*	4	U215	B	100 (45.4)
Chloroethane	75003		1*	2		B	100 (45.4)
Chromic acetate	1066304		1000	1		C	1000 (454)
Chromic sulfate	10101538		1000	1		C	1000 (454)
Chromous chloride	10049055		1000	1		C	1000 (454)
Copper ††	7440508		1*	2		D	5000 (2270)
Cresol(s)	1319773	Cresylic acid	1000	1,4	U052	C	1000# (454)
m-	108394						
o-	95487						

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
p-	106445						
Cresylic acid	1319773	Cresol(s)	1000	1,4	U052	C	1000# (454)
m-	108394						
o-	95487						
p-	106445						
Cupric chloride	7447394		10	1		A	10 (4.54)
Cupric sulfate	7758987		10	1		A	10 (4.54)
Cupric tartrate	815827		100	1		B	100 (45.4)
1,4-Cyclohexadienedione	106514	p-Benzoquinone	1*	4	U197	A	10 (4.54)
Dichloropropane - Dichloropropene (mixture)	8003198		5000	1		B	100# (45.4)
Dichloropropene(s)	26952238		5000	1		B	100 (45.4)
2,3-Dichloropropene (isomer)	78886						
1,3-Dichloropropene	542756	Propene, 1,3-dichloro-	5000	1,2,4	U084	B	100# (45.4)
Diethylamine	109897		1000	1		B	100 (45.4)
Dimethylamine	124403	Methanamine, N-methyl-	1000	1,4	U092	C	1000 (454)
O,O-Dimethyl O-p-nitrophenyl phosphorothioate	298000	Methyl parathion	100	1,4	P071	B	100 (45.4)
Ethane, pentachloro-	76017	Pentachloroethane	1*	4	U184	X	1# (0.454)
Ethion	563122		10	1		A	10 (4.54)
2-Ethoxyethanol	110805	Ethylene glycol monoethyl ether	1*	4	U359	X	1# (0.454)
Ethylene glycol monoethyl ether	110805	2-Ethoxyethanol	1*	4	U359	X	1# (0.454)
Ferric dextran ***	9004664	Iron dextran ***	1*	4	U139	D	5000 (2270)
Fluoranthene	206440	Benzo[j,k]fluorene	1*	2,4	U120	B	100 (45.4)
Fluorene	86737		1*	2		D	5000 (2270)
Fulminic acid, mercury(II) salt	628864	Mercury fulminate	1*	4	P065	A	10 (4.54)
Hexachlorophene	70304	2,2'-Methylenebis(3,4,6-trichlorophenol)	1*	4	U132	B	100 (45.4)
Hydrogen sulfide	7783064	Hydrosulfuric acid Sulfur hydride	100	1,4	U135	B	100 (45.4)
Hydrosulfuric acid	7783064	Hydrogen sulfide Sulfur hydride	100	1,4	U135	B	100 (45.4)
Iron dextran ***	9004664	Ferric dextran ***	1*	4	U139	D	5000 (2270)
Isoprene	78795		1000	1		B	100 (45.4)
Lead ††	7439921		1*	2		X	1# (0.454)
Lead chloride	7758954		5000	1		B	100# (45.4)
Lead fluoborate	13814965		5000	1		B	100 (45.4)
Lead fluoride	7783462		1000	1		B	100 (45.4)
Lead iodide	10101630		5000	1		B	100 (45.4)
Lead nitrate	10099748		5000	1		B	100# (45.4)
Lead stearate	7428480 1072351 52652592 56189094		5000	1		D	5000 (2270)
Lead sulfate	15739807		5000	1		B	100 (45.4)
Lead sulfide	7446142 1314870		5000	1		D	5000 (2270)
Lead thiocyanate	592870		5000	1		B	100 (45.4)
Mercuric nitrate	10045940		10	1		A	10 (4.54)
Mercuric sulfate	7783359		10	1		A	10 (4.54)
Mercuric thiocyanate	592858		10	1		A	10 (4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Mercurous nitrate	10415755		10	1		A	10 (4.54)
Mercury fulminate	628864	Fulminic acid, mercury(II) salt	1*	4	P065	A	10 (4.54)
Mercury, (acetato-O)phenyl-	62384	Phenylmercuric acetate	1*	4	P092	B	100 (45.4)
Methanamine, N-methyl-	124403	Dimethylamine	1000	1,4	U092	C	1000 (454)
Methane, chloro-	74873	Methyl chloride	1*	2,4	U045	X	1# (0.454)
Methyl chloride	74873	Methane, chloro-	1*	2,4	U045	X	1# (0.454)
Methyl parathion	298000	O,O-Dimethyl O-p-nitrophenyl phosphorothioate	100	1,4	P071	B	100 (45.4)
2,2'-Methylenebis(3,4,6-trichlorophenol)	70304	Hexachlorophene	1*	4	U132	B	100 (45.4)
Monoethylamine	75047		1000	1		B	100 (45.4)
Pentachlorobenzene	608935	Benzene, pentachloro-	1*	4	U183	A	10 (4.54)
Pentachloroethane	76017	Ethane, pentachloro-	1*	4	U184	X	1# (0.454)
Phenanthrene	85018		1*	2		D	5000 (2270)
Phenol	108952	Benzene, hydroxy-	1000	1,2,4	U188	C	1000 (454)
Phenylmercuric acetate	62384	Mercury, (acetato-O)phenyl-	1*	4	P092	B	100 (45.4)
Phorate	298022	Phosphorodithioic acid, O,O-diethyl S-(ethylthio) methyl ester	1*	4	P094	A	10 (4.54)
Phosphorodithioic acid, O,O-diethyl S-(ethylthio) methyl ester.	298022	Phorate	1*	4	P094	A	10 (4.54)
Plumbane, tetraethyl-	78002	Tetraethyl lead	100	1,4	P110	A	10# (4.54)
Propene, 1,3-dichloro-	542756	1,3-Dichloropropene	5000	1,2,4	U084	B	100# (45.4)
Pyrene	129000		1*	2		D	5000 (2270)
Pyridine	110861		1*	4	U196	C	1000 (454)
Pyrophosphoric acid, tetraethyl ester	107493	Tetraethyl pyrophosphate	100	1,4	P111	A	10 (4.54)
Selenious acid	7783008		1*	4	U204	A	10 (4.54)
Selenium ††	7782492		1*	2		B	100 (45.4)
Selenium dioxide	7446084	Selenium oxide	1000	1,4	U204	A	10 (4.54)
Selenium oxide	7446084	Selenium dioxide	1000	1,4	U204	A	10 (4.54)
Selenourea	630104	Carbamimidoselenoic acid	1*	4	P103	C	1000 (454)
Sodium bifluoride	1333831		5000	1		B	100 (45.4)
Sodium nitrite	7632000		100	1		B	100 (45.4)
Sodium selenite	10102188		1000	1		B	100 (45.4)
Sulfur hydride	7783064	Hydrogen sulfide Hydrosulfuric acid	100	1,4	U135	B	100 (45.4)
Sulfuric acid, thallium(I) salt	7446186 10031591	Thallium(I) sulfate	1000	1,4	P115	B	100 (45.4)
Tetraethyl lead	78002	Plumbane, tetraethyl-	100	1,4	P110	A	10# (4.54)
Tetraethyl pyrophosphate	107493	Pyrophosphoric acid, tetraethyl ester	100	1,4	P111	A	10 (4.54)
Thallic oxide	1314325	Thallium(III) oxide	1*	4	P113	B	100 (45.4)
Thallium ††	7440280		1*	2		C	1000 (454)
Thallium(I) acetate	563688	Acetic acid, thallium(I) salt	1*	4	U214	B	100 (45.4)
Thallium(I) carbonate	6533739	Carbonic acid, dithallium(I) salt	1*	4	U215	B	100 (45.4)
Thallium(I) chloride	7791120		1*	4	U216	B	100 (45.4)
Thallium(I) nitrate	10102451		1*	4	U217	B	100 (45.4)
Thallium(III) oxide	1314325	Thallic oxide	1*	4	P113	B	100 (45.4)
Thallium(I) selenide	12039520		1*	4	P114	C	1000 (454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Thallium(I) sulfate	7446186 10031591	Sulfuric acid, thallium(I) salt	1000	1,4	P115	B	100 (45.4)
o-Toluidine	95534	2-Amino-1-methyl benzene	1*	4	U328	X	1# (0.454)
p-Toluidine	106490	4-Amino-1-methyl benzene	1*	4	U353	X	1# (0.454)
Trichlorfon	52686		1000	1		B	100 (45.4)
Trimethylamine	75503		1000	1		B	100 (45.4)
sym-Trinitrobenzene	99354	Benzene, 1,3,5-trinitro-	1*	4	U234	A	10 (4.54)
Unlisted Hazardous Wastes Characteristic of EP Toxicity	N.A.						
Selenium D010	N.A.		1*	4	D010	A	10 (4.54)
Uranyl acetate ****	541093		5000	1		B	100 (45.4)
Uranyl nitrate ****	10102064		5000	1		B	100 (45.4)
Vanadium(V) oxide	1314621	Vanadium pentoxide	1000	1,4	P120	C	1000 (454)
Vanadium pentoxide	1314621	Vanadium(V) oxide	1000	1,4	P120	C	1000 (454)
Vanadyl sulfate	27774136		1000	1		C	1000 (454)
Zinc ††	7440666		1*	2		C	1000 (454)
Zinc acetate	557346		1000	1		C	1000 (454)
Zinc ammonium chloride	52628258		5000	1		C	1000 (454)
Zinc borate	1332076		1000	1		C	1000 (454)
Zinc bromide	7699458		5000	1		C	1000 (454)
Zinc carbonate	3486359		1000	1		C	1000 (454)
Zinc chloride	7646857		5000	1		C	1000 (454)
Zinc cyanide	557211		10	1,4	P121	A	10 (4.54)
Zinc fluoride	7783495		1000	1		C	1000 (454)
Zinc formate	557415		1000	1		C	1000 (454)
Zinc hydrosulfite	7779864		1000	1		C	1000 (454)
Zinc nitrate	7779888		5000	1		C	1000 (454)
Zinc phenolsulfonate	127822		5000	1		D	5000 (2270)
Zinc phosphide	1314847		1000	1,4	P122	B	100 (45.4)
Zinc silicofluoride	16871719		5000	1		D	5000 (2270)
Zinc sulfate	7733020		1000	1		C	1000 (454)
F004			1*	4	F004	C	1000# (454)
The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents: (a) Cresols/Cresylic acid (b) Nitrobenzene							
F005			1*	4	F005	B	100 (45.4)
The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents: (a) Toluene (b) Methyl ethyl ketone (c) Carbon disulfide (d) Isobutanol (e) Pyridine							
F020			1*	4	F020	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.)							

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
F021			1*	4	F021	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.							
F022			1*	4	F022	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.							
F023			1*	4	F023	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols . (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5- trichlorophenol.)							
F026			1*	4	F026	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions.							
F027			1*	4	F027	X	1# (0.454)
Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)							
F028			1*	4	F028	X	1# (0.454)
Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.							
K026			1*	4	K026	C	1000 (454)
Stripping still tails from the production of methyl ethyl pyridines							
K039			1*	4	K039	A	10 (4.54)
Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate							
K046			1*	4	K046	B	100 (45.4)
Wastewater treatment sludges from the manufacturing , formulation and loading of lead-based initiating compounds							
K052			1*	4	K052	A	10# (4.54)
Tank bottoms (leaded) from the petroleum refining industry							
K087			1*	4	K087	B	100 (45.4)
Decanter tank tar sludge from coking operations							
K111			1*	4	K111	X	1# (0.454)
Product washwaters from the production of dinitrotoluene via nitration of toluene.							
K112			1*	4	K112	X	1# (0.454)
Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.							
K113			1*	4	K113	X	1# (0.454)
Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.							

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
K114 Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.			1*	4	K114	X	1# (0.454)
K115 Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.			1*	4	K115	X	1# (0.454)
K116 Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.			1*	4	K116	X	1# (0.454)
K117 Wastewater from the reaction vent gas scrubber in the production of ethylene bromide via bromination of ethene.			1*	4	K117	X	1# (0.454)
K118 Spent absorbent solids from purification of ethylene dibromide in the production of ethylene dibromide.			1*	4	K118	X	1# (0.454)
K136 Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.			1*	4	K136	X	1# (0.454)

† - indicates the statutory source as defined by 1, 2, 3, or 4 below
†† - no reporting of releases of this hazardous substance is required if the diameter of the pieces of the solid metal released is equal to or exceeds 100 micrometers (0.004 inches)
1 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 311(b)(4)
2 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 307(a)
3 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CAA Section 112
4 - indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001
1* - indicates that the 1-pound RQ is a CERCLA statutory RQ
*** - Iron dextran was designated as a hazardous substance under CERCLA solely because of its listing as a hazardous waste under Section 3001 of RCRA. The Agency recently proposed to delist iron dextran under RCRA(50 FR 46468-46470, November 8,1985). The Agency has also proposed to delist iron dextran from Table 302.4 of 40 CFR 302.4 and thereby remove its designation as a CERCLA hazardous substance.
**** - Uranyl acetate and uranyl nitrate currently are being evaluated for their radioactive properties. Their RQs may be further adjusted in a future rulemaking adjusting the RQ of radionuclides.
# - indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or chronic toxicity is completed

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES

CASRN	Hazardous Substance
52686	Trichlorfon
62384	Mercury, (acetato-O)phenyl- Phenylmercuric acetate
70304	Hexachlorophene 2,2'-Methylenebis(3,4,6-trichlorophenol)
74873	Methane, chloro- Methyl chloride
75003	Chloroethane
75047	Monoethylamine
75150	Carbon bisulfide Carbon disulfide
75503	Trimethylamine
76017	Ethane, pentachloro- Pentachloroethane
78002	Plumbane, tetraethyl- Tetraethyl lead
78795	Isoprene
78886	2,3-Dichloropropene (isomer)

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
83329	Acenaphthene
85018	Phenanthrene
86737	Fluorene
95487	o-Cresol o-Cresylic acid
95534	o-Toluidine 2-Amino-1-methyl benzene
99354	Benzene, 1,3,5-trinitro- sym-Trinitrobenzene
106445	p-Cresol p-Cresylic acid
106490	p-Toluidine 4-Amino-1-methyl benzene
106514	p-Benzoquinone 1,4-Cyclohexadienedione
107493	Pyrophosphoric acid, tetraethyl ester Tetraethyl pyrophosphate
108394	m-Cresol m-Cresylic acid

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
108952	Benzene, hydroxy- Phenol
109897	Diethylamine
110805	Ethylene glycol monoethyl ether 2-Ethoxyethanol
110861	Pyridine
120127	Anthracene
124403	Dimethylamine Methanamine, N-methyl-
127822	Zinc phenolsulfonate
129000	Pyrene
133062	Captan
191242	Benzo[ghi]perylene
206440	Benzo[j,k]fluorene Fluoranthene
208968	Acenaphthylene
298000	Methyl parathion O,O-Dimethyl O-p-nitrophenyl phosphorothioate

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
298022	Phorate Phosphorodithioic acid, O,O-diethyl S-(ethylthio) methyl ester
319868	delta - BHC
541093	Uranyl acetate
542756	Propene, 1,3-dichloro- 1,3-Dichloropropene
557211	Zinc cyanide
557346	Zinc acetate
557415	Zinc formate
563122	Ethion
563688	Acetic acid, thallium(I) salt Thallium(I) acetate
592858	Mercuric thiocyanate
592870	Lead thiocyanate
608935	Benzene, pentachloro- Pentachlorobenzene
628864	Fulminic acid, mercury(II) salt Mercury fulminate
630104	Carbamimidoselenoic acid Selenourea
815827	Cupric tartrate
1066304	Chromic acetate
1072351	Lead stearate
1314325	Thallic oxide Thallium(III) oxide
1314621	Vanadium pentoxide Vanadium(V) oxide
1314847	Zinc phosphide
1314870	Lead sulfide
1319773	Cresol(s) Cresylic acid
1332076	Zinc borate
1333831	Sodium bifluoride
1341497	Ammonium bifluoride
3486359	Zinc carbonate
6533739	Carbonic acid, dithallium(I) salt Thallium(I) carbonate
7428480	Lead stearate
7439921	Lead
7440280	Thallium
7440360	Antimony
7440508	Copper
7440666	Zinc
7446084	Selenium dioxide Selenium oxide
7446142	Lead sulfate
7446186	Sulfuric acid, thallium(I) salt Thallium(I) sulfate

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
7447394	Cupric chloride
7632000	Sodium nitrite
7646857	Zinc chloride
7664417	Ammonia
7699458	Zinc bromide
7733020	Zinc sulfate
7758954	Lead chloride
7758987	Cupric sulfate
7779864	Zinc hydrosulfite
7779886	Zinc nitrate
7782492	Selenium
7783006	Selenious acid
7783064	Hydrogen sulfide Hydrosulfuric acid Sulfur hydride
7783359	Mercuric sulfate
7783462	Lead fluoride
7783495	Zinc fluoride
7791120	Thallium(I) chloride
8003198	Dichloropropane - Dichloropropene (mixture)
9004664	Ferric dextran Iron dextran
10031591	Sulfuric acid, thallium(I) salt Thallium(I) sulfate
10045940	Mercuric nitrate
10049055	Chromous chloride
10099748	Lead nitrate
10101538	Chromic sulfate
10101630	Lead iodide
10102064	Uranyl nitrate
10102188	Sodium selenite
10102451	Thallium(I) nitrate
10415755	Mercurous nitrate
12039520	Thallium(I) selenide
13814965	Lead fluoborate
15739807	Lead sulfate
16871719	Zinc silicofluoride
26952238	Dichloropropene(s)
27774136	Vanadyl sulfate
52628258	Zinc ammonium chloride
52652592	Lead stearate
56189094	Lead stearate

3. Section 302.5 is revised to read as follows:

§ 302.5 Determination of reportable quantities.

(a) *Listed hazardous substances.* The quantity listed in the column "Final RQ" for each substance in Table 302.4 is the reportable quantity for that substance.

(b) *Unlisted hazardous substances.* Unlisted hazardous substances designated by 40 CFR 302.4(b) have the reportable quantity of 100 pounds, except for those unlisted hazardous wastes which exhibit extraction procedure (EP) toxicity identified in 40 CFR 261.24. Unlisted hazardous wastes which exhibit EP toxicity have the reportable quantities listed in Table 302.4 for the contaminant on which the characteristic of EP toxicity is based. The reportable quantity applies to the waste itself, not merely to the toxic contaminant. If an unlisted hazardous waste exhibits EP toxicity on the basis of more than one contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed in Table 302.4 for those contaminants. If an unlisted hazardous waste exhibits the characteristic of EP toxicity and one or more of the other characteristics referenced in 40 CFR 302.4(b), the reportable quantity for that waste shall be the lowest of the applicable reportable quantities.

40 CFR Part 117 is amended as follows:

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

4. The authority citation for Part 117 continues to read as follows:

Authority: Secs 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and Executive Order 11735.

5. Section 117.3 is amended by revising Table 117.3 to read as follows:

§ 117.3 Determination of reportable quantities.

* * * * *

Table 117.3—Reportable Quantities of Hazardous Substances

Note—The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities 1, 10, 100, 1000, and 5000 pounds, respectively.

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Acetaldehyde	C	1,000 (454)
Acetic acid	D	5,000 (2,270)
Acetic anhydride	D	5,000 (2,270)
Acetone cyanohydrin	A	10 (4.54)
Acetyl bromide	D	5,000 (2,270)
Acetyl chloride	D	5,000 (2,270)
Acrolein	X	1 (0.454)
Acrylonitrile	B	100 (45.4)
Adipic acid	D	5,000 (2,270)
Aldrin	X	1 (0.454)
Allyl alcohol	B	100 (45.4)
Allyl chloride	C	1,000 (454)
Aluminum sulfate	D	5,000 (2,270)
Ammonia	B	100 (45.4)
Ammonium acetate	D	5,000 (2,270)
Ammonium benzoate	D	5,000 (2,270)
Ammonium bicarbonate	D	5,000 (2,270)
Ammonium bichromate	C	1,000 (454)
Ammonium bifluoride	B	100 (45.4)
Ammonium bisulfite	D	5,000 (2,270)
Ammonium carbamate	D	5,000 (2,270)
Ammonium carbonate	D	5,000 (2,270)
Ammonium chloride	D	5,000 (2,270)
Ammonium chromate	C	1,000 (454)
Ammonium citrate	D	5,000 (2,270)
Ammonium fluoborate	D	5,000 (2,270)
Ammonium fluoride	B	100 (45.4)
Ammonium hydroxide	C	1,000 (454)
Ammonium oxalate	D	5,000 (2,270)
Ammonium silicofluoride	C	1,000 (454)
Ammonium sulfamate	D	5,000 (2,270)
Ammonium sulfide	B	100 (45.4)
Ammonium sulfite	D	5,000 (2,270)
Ammonium tartrate	D	5,000 (2,270)
Ammonium thiocyanate	D	5,000 (2,270)
Ammonium thiosulfate	D	5,000 (2,270)
Amyl acetate	D	5,000 (2,270)
Aniline	D	5,000 (2,270)
Antimony pentachloride	C	1,000 (454)
Antimony potassium tartrate	B	100 (45,4)
Antimony tribromide	C	1,000 (454)
Antimony trichloride	C	1,000 (454)
Antimony trifluoride	C	1,000 (454)
Antimony trioxide	C	1,000 (454)
Arsenic disulfide	D	5,000 (2,270)
Arsenic pentoxide	D	5,000 (2,270)
Arsenic trichloride	D	5,000 (2,270)
Arsenic trioxide	D	5,000 (2,270)
Arsenic trisulfide	D	5,000 (2,270)
Barium cyanide	A	10 (4.54)
Benzene	C	1,000 (454)
Benzoic acid	D	5,000 (2,270)
Benzonitrile	D	5,000 (2,270)
Benzoyl chloride	C	1,000 (454)
Benzyl chloride	B	100 (45.4)
Beryllium chloride	D	5,000 (2,270)
Beryllium fluoride	D	5,000 (2,270)
Beryllium nitrate	D	5,000 (2,270)
Butyl acetate	D	5,000 (2,270)
Butylamine	C	1,000 (454)
n-Butyl phthalate	A	10 (4.54)
Butyric acid	D	5,000 (2,270)
Cadmium acetate	B	100 (45.4)
Cadmium bromide	B	100 (45.4)
Cadmium chloride	B	100 (45.4)
Calcium arsenate	C	1,000 (454)
Calcium arsenite	C	1,000 (454)
Calcium carbide	A	10 (4.54)
Calcium chromate	C	1,000 (454)
Calcium cyanide	A	10 (4.54)
Calcium dodecylbenzenesulfonate.	C	1,000 (454)
Calcium hypochlorite	A	10 (4.54)
Captan	A	10 (4.54)
Carbaryl	B	100 (45.4)
Carbofuran	A	10 (4.54)
Carbon disulfide	B	100 (45.4)
Carbon tetrachloride	D	5,000 (2,270)
Chlordane	X	1 (0.454)
Chlorine	A	10 (4.54)
Chlorobenzene	B	100 (45.4)
Chloroform	D	5,000 (2,270)
Chlorosulfonic acid	C	1,000 (454)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Chlorpyrifos	X	1 (0.454)
Chromic acetate	C	1,000 (454)
Chromic acid	C	1,000 (454)
Chromic sulfate	C	1,000 (454)
Chromous chloride	C	1,000 (454)
Cobaltous bromide	C	1,000 (454)
Cobaltous formate	C	1,000 (454)
Cobaltous sulfamate	C	1,000 (454)
Coumaphos	A	10 (4.54)
Cresol	C	1,000 (454)
Crotonaldehyde	B	100 (45.4)
Cupric acetate	B	100 (45.4)
Cupric acetoarsenite	B	100 (45.4)
Cupric chloride	A	10 (4.54)
Cupric nitrate	B	100 (45.4)
Cupric oxalate	B	100 (45.4)
Cupric sulfate	A	10 (4.54)
Cupric sulfate ammoniated	B	100 (45.4)
Cupric tartrate	B	100 (45.4)
Cyanogen chloride	A	10 (4.54)
Cyclohexane	C	1,000 (454)
2,4-D Acid	B	100 (45.4)
2,4-D Esters	B	100 (45.4)
DDT	X	1 (0.454)
Diazinon	X	1 (0.454)
Dicamba	C	1,000 (454)
Dichlobenil	B	100 (45.4)
Dichlone	X	1 (0.454)
Dichlorobenzene	B	100 (45.4)
Dichloropropane	C	1,000 (454)
Dichloropropene	B	100 (45.4)
Dichloropropene-Dichloropropane Mixture.	B	100 (45.4)
2,2-Dichloropropionic acid	D	5,000 (2,270)
Dichlorvos	A	10 (4.54)
Dieldrin	X	1 (0.454)
Diethylamine	B	100 (45.4)
Dimethylamine	C	1,000 (454)
Dinitrobenzene	B	100 (45.4)
Dinitrophenol	A	10 (4.54)
Dinitrotoluene	C	1,000 (454)
Diquat	C	1,000 (454)
Disulfoton	X	1 (0.454)
Diuron	B	100 (45.4)
Dodecylbenzenesulfonic acid	C	1,000 (454)
Endosulfan	X	1 (0.454)
Endrin	X	1 (0.454)
Epichlorohydrin	C	1,000 (454)
Ethion	A	10 (4.54)
Ethylbenzene	C	1,000 (454)
Ethylenediamine	D	5,000 (2,270)
Ethylene dibromide	C	1,000 (454)
Ethylene dichloride	D	5,000 (2,270)
EDTA	D	5,000 (2,270)
Ferric ammonium citrate	C	1,000 (454)
Ferric ammonium oxalate	C	1,000 (454)
Ferric chloride	C	1,000 (454)
Ferric fluoride	B	100 (45.4)
Ferric nitrate	C	1,000 (454)
Ferric sulfate	C	1,000 (454)
Ferrous ammonium sulfate	C	1,000 (454)
Ferrous chloride	B	100 (45.4)
Ferrous sulfate	C	1,000 (454)
Formaldehyde	C	1,000 (454)
Formic acid	D	5,000 (2,270)
Fumaric acid	D	5,000 (2,270)
Furfural	D	5,000 (2,270)
Guthion	X	1 (0.454)
Heptachlor	X	1 (0.454)
Hexachlorocyclopentadiene	X	1 (0.454)
Hydrochloric acid	D	5,000 (2,270)
Hydrofluoric acid	B	100 (45.4)
Hydrogen cyanide	A	10 (4.54)
Hydrogen sulfide	B	100 (45.4)
Isoprene	B	100 (45.4)
Isopropanolamine dodecylbenzenesulfonate.	C	1,000 (454)
Kelthane	A	10 (4.54)
Kepone	X	1 (0.454)
Lead acetate	D	5,000 (2,270)
Lead arsenate	D	5,000 (2,270)
Lead chloride	B	100 (45.4)
Lead fluoborate	B	100 (45.4)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Lead fluoride	B	100 (45.4)
Lead iodide	B	100 (45.4)
Lead nitrate	B	100 (45.4)
Lead stearate	D	5,000 (2,270)
Lead sulfate	B	100 (45.4)
Lead sulfide	D	5,000 (2,270)
Lead thiocyanate	B	100 (45.4)
Lindane	X	1 (0.454)
Lithium chromate	C	1,000 (454)
Malathion	B	100 (45.4)
Maleic acid	D	5,000 (2,270)
Maleic anhydride	D	5,000 (2,270)
Mercaptodimethur	A	10 (4.54)
Mercuric cyanide	X	1 (0.454)
Mercuric nitrate	A	10 (4.54)
Mercuric sulfate	A	10 (4.54)
Mercuric thiocyanate	A	10 (4.54)
Mercurous nitrate	A	10 (4.54)
Methoxychlor	X	1 (0.454)
Methyl mercaptan	B	100 (45.4)
Methyl methacrylate	C	1,000 (454)
Methyl parathion	B	100 (45.4)
Mevinphos	A	10 (4.54)
Mexacarbate	C	1,000 (454)
Monoethylamine	B	100 (45.4)
Monomethylamine	B	100 (45.4)
Naled	A	10 (4.54)
Naphthalene	B	100 (45.4)
Naphthenic acid	B	100 (45.4)
Nickel ammonium sulfate	D	5,000 (2,270)
Nickel chloride	D	5,000 (2,270)
Nickel hydroxide	C	1,000 (454)
Nickel nitrate	D	5,000 (2,270)
Nickel sulfate	D	5,000 (2,270)
Nitric acid	C	1,000 (454)
Nitrobenzene	C	1,000 (454)
Nitrogen dioxide	A	10 (4.54)
Nitrophenol	B	100 (45.4)
Nitrotoluene	C	1,000 (454)
Paraformaldehyde	C	1,000 (454)
Parathion	X	1 (0.454)
Pentachlorophenol	A	10 (4.54)
Phenol	C	1,000 (454)
Phosgene	A	10 (4.54)
Phosphoric acid	D	5,000 (2,270)
Phosphorus	X	1 (0.454)
Phosphorus oxychloride	C	1,000 (454)
Phosphorus pentasulfide	B	100 (45.4)
Phosphorus trichloride	C	1,000 (454)
Polychlorinated biphenyls	A	10 (4.54)
Potassium arsenate	C	1,000 (454)
Potassium arsenite	C	1,000 (454)
Potassium bichromate	C	1,000 (454)
Potassium chromate	C	1,000 (454)
Potassium cyanide	A	10 (4.54)
Potassium hydroxide	C	1,000 (454)
Potassium permanganate	B	100 (45.4)
Propargite	A	10 (4.54)
Propionic acid	D	5,000 (2,270)
Propionic anhydride	D	5,000 (2,270)
Propylene oxide	B	100 (45.4)
Pyrethrins	X	1 (0.454)
Quinoline	D	5,000 (2,270)
Resorcinol	D	5,000 (2,270)
Selenium oxide	A	10 (4.54)
Silver nitrate	X	1 (0.454)
Sodium	A	10 (4.54)
Sodium arsenate	C	1,000 (454)
Sodium arsenite	C	1,000 (454)
Sodium bichromate	C	1,000 (454)
Sodium bifluoride	B	100 (45.4)
Sodium bisulfite	D	5,000 (2,270)
Sodium chromate	C	1,000 (454)
Sodium cyanide	A	10 (4.54)
Sodium dodecylbenzenesulfonate.	C	1,000 (454)
Sodium fluoride	C	1,000 (454)
Sodium hydrosulfide	D	5,000 (2,270)
Sodium hydroxide	C	1,000 (454)
Sodium hypochlorite	B	100 (45.4)
Sodium methylate	C	1,000 (454)
Sodium nitrite	B	100 (45.4)
Sodium phosphate, dibasic	D	5,000 (2,270)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Sodium phosphate, tribasic	D	5,000 (2,270)
Sodium selenite	B	100 (45.4)
Strontium chromate	C	1,000 (454)
Strychnine	A	10 (4.54)
Styrene	C	1,000 (454)
Sulfuric acid	C	1,000 (454)
Sulfur monochloride	C	1,000 (454)
2,4,5-T acid	C	1,000 (454)
2,4,5-T amines	D	5,000 (2,270)
2,4,5-T esters	C	1,000 (454)
2,4,5-T salts	C	1,000 (454)
TDE	X	1 (0.454)
2,4,5-TP acid	B	100 (45.4)
2,4,5-TP acid esters	B	100 (45.4)
Tetraethyl lead	A	10 (4.54)
Tetraethyl pyrophosphate	A	10 (4.54)
Thallium sulfate	B	100 (45.4)
Toluene	C	1,000 (454)
Toxaphene	X	1 (0.454)
Trichlorfon	B	100 (45.4)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Trichloroethylene	C	1,000 (454)
Trichlorophenol	A	10 (4.54)
Triethanolamine dodecylbenzenesulfonate	C	1,000 (454)
Triethylamine	D	5,000 (2,270)
Trimethylamine	B	100 (45.4)
Uranyl acetate	B	100 (45.4)
Uranyl nitrate	B	100 (45.4)
Vanadium pentoxide	C	1,000 (454)
Vanadyl sulfate	C	1,000 (454)
Vinyl acetate	D	5,000 (2,270)
Vinylidene chloride	D	5,000 (2,270)
Xylene	C	1,000 (454)
Xylenol	C	1,000 (454)
Zinc acetate	C	1,000 (454)
Zinc ammonium chloride	C	1,000 (454)
Zinc borate	C	1,000 (454)
Zinc bromide	C	1,000 (454)
Zinc carbonate	C	1,000 (454)
Zinc chloride	C	1,000 (454)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Zinc cyanide	A	10 (4.54)
Zinc fluoride	C	1,000 (454)
Zinc formate	C	1,000 (454)
Zinc hydrosulfite	C	1,000 (454)
Zinc nitrate	C	1,000 (454)
Zinc phenolsulfonate	D	5,000 (2,270)
Zinc phosphide	B	100 (45.4)
Zinc silicofluoride	D	5,000 (2,270)
Zinc sulfate	C	1,000 (454)
Zirconium nitrate	D	5,000 (2,270)
Zirconium potassium fluoride	C	1,000 (454)
Zirconium sulfate	D	5,000 (2,270)
Zirconium tetrachloride	D	5,000 (2,270)

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September 29, 1986

Part III

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1915

Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1915

[Docket No. S-020]

Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks

AGENCY: Occupational Safety and Health Administration (OSHA).

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) hereby revises certain recordkeeping requirements to minimize the paperwork burdens imposed on employers. This final rule eliminates certain requirements under which an employer must prepare and maintain detailed records. The revised provisions require, instead, that the employer simply prepare a certification record, at the time the required work is done, which includes the date the test, inspection, or maintenance check was performed; the signature of the person who performed the work; and the identity of the equipment or machinery that was inspected or tested. In addition, OSHA is revoking two recordkeeping requirements. OSHA has determined that the implementation of this final rule will minimize the paperwork burden on employers, as required by the Paperwork Reduction Act of 1980, without reducing the protection of employee safety or health.

DATE: These revisions will become effective October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Ave., NW., Washington, DC 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Background

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) was enacted to minimize the Federal paperwork burden and maximize the efficiency and usefulness of Federal information gathering activities. That Act set goals for the phased reduction of Federal information gathering burdens. The Paperwork Reduction Act also required the Office of Management and Budget (OMB) to promulgate regulations which would guide Federal agencies in their compliance efforts. OMB has published implementing regulations at 5 CFR Part 1320 and has issued supplement directives.

In addition, section 8(d) of the Occupational Safety and Health Act (the OSH Act) states, "any information obtained by the Secretary . . . under this Act shall be obtained with a minimum burden upon employers . . . ."

In an effort to meet these statutory goals, OSHA reviewed its safety standards to identify all recordkeeping requirements. OSHA then analyzed each of the 38 requirements identified to determine which recordkeeping burdens could be reduced.

Each requirement was reviewed to determine:

—What kind of information was required;
—How this information would be used;
—Whether this information was collected by other authorities (e.g. pursuant to state and local law or regulation);
—Whether this record would provide information that a compliance officer would not otherwise ascertain at the time of inspection; and,
—Which requirements contributed directly to employee safety and health.

On the basis of this careful review and analysis, OSHA identified 22 provisions in 29 CFR Parts 1910, 1915, and 1926 that, it believed, did not directly contribute to worker safety and health and, therefore, unnecessarily burdened employers with requirements that they prepare and maintain records of their tests, inspections, and maintenance checks.

In particular, OSHA determined that the recordkeeping requirements in question were adopted because the Agency wanted the employer to provide evidence that the required tests and inspections had been performed. Having made that determination, OSHA compared the purposes for the recordkeeping requirements with their language and found that they required more information than OSHA needed. Therefore, OSHA determined that the proposed revisions were appropriate.

OSHA also identified a duplicative recordkeeping provision and another which dealt with concerns outside OSHA's jurisdiction as appropriate for deletion.

In addition to its concern for reduction of paperwork burdens, OSHA has been concerned that many of the requirements proposed for revision were so vaguely written and ambiguous that employers may be keeping records which are much more detailed than either required by OSHA or needed for their own purposes. This vagueness and ambiguity make it difficult for employers to determine what information OSHA wants recorded or included in an inspection report. For example, the current provisions of §§ 1910.179(j)(2)(iii), 1910.179(j)(2)(iv) and 1910.180(d)(6) require the preparation of signed reports, while §§ 1910.218(a)(2)(i), 1910.252(c)(6) and 1915.172(d) require employers to maintain records. Employers might, therefore, conclude that a report would contain details while a record would involve less information, perhaps simply noting the date the required work was done. The final rule corrects this ambiguity and makes it very clear what information is required.

On January 3, 1986, OSHA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (51 FR 312) to revise the 22 provisions in question and revoke the other 2 provisions. OSHA proposed to eliminate certain requirements for written, detailed records and reports and replace them with provisions under which employers would certify in writing, upon request of OSHA, that they had complied with the pertinent test or inspection provisions. Under this approach, OSHA anticipated that an employer operating a workplace visited by an OSHA compliance officer would be able to certify, in a signed and dated statement, that the required work had been done. The Agency believed, based on its experience with the standards in question, that the proposed certification statement would provide "evidence of compliance which is equivalent to preparing and maintaining records to be presented to OSHA upon request." [51 FR at 313].

The NPRM established a 60-day period, which ended March 4, 1986, for submission of written comments and hearing requests. The 32 comments received focused on several issues, particularly whether there was a need to retain the recordkeeping requirements, the likelihood that the proposed revisions would reduce employers' recordkeeping burdens and whether certification upon request would provide adequate assurance that an employer had complied with the testing or inspection requirements. In addition, OSHA received four hearing requests.

During this period, OSHA determined that it had not formally consulted with the Advisory Committee on Construction Safety and Health regarding the three recordkeeping requirements proposed for revision which are contained in the Construction Safety and Health Standards located in 29 CFR Part 1926. The three recordkeeping requirements in question

are found in § 1926.550(b)(2)—Cranes and derricks; § 1926.552(c)(15)—Material hoists, personnel hoists and elevators; and § 1926.903(e)—Underground transportation of explosives.

OSHA, therefore, withdrew those three recordkeeping provisions from consideration for revision in the Notice of Informal Public Hearing which it published on March 14, 1986 [51 FR 8844]. Any revision of those three construction provisions will take place as part of a separate rulemaking.

In the hearing notice, OSHA also responded to NPRM comments which stated that the proposed "certification upon request" would raise unacceptable risks of employer error or dishonesty. Several of the commenters suggested that "contemporaneous certification" would provide the necessary assurance of compliance. The Agency provided notice, through "Issue 5" of the hearing notice, that it was considering the adoption of a contemporaneous certification requirement in place of certification upon request. Under the alternative approach, the employer ensured that the employee who actually performed the pertinent test or inspection certified, at that time, that the required work has been done. The contemporaneous certification would contain the following three pieces of information: The date the inspection or test was done, the signature of the person who performed the work, and the identity of the equipment that was tested or inspected. OSHA requested that interested parties comment on the "three data point" certification approach in their notices of intention to appear and in their hearing testimony.

The public hearing was held on April 15, 1986, in Washington, DC, with Administrative Law Judge Ellin O'Shea presiding. At the close of the hearing, Judge O'Shea set a period, which ended May 30, 1986, for the submission of additional comments and information. Four post-hearing submissions were received. On August 15, 1986, Judge O'Shea certified the hearing transcript and related submissions, closing the record for this proceeding. A wide range of labor unions, businesses, trade associations, state governments, and other interested parties contributed to the development of this record. OSHA appreciates the efforts interested parties have made to help develop a rulemaking record which provides a sound basis for agency decisionmaking. The issues raised in written comments and hearing testimony will be discussed below.

II. Discussion of Issues Raised in the Comments, Testimony and Posthearing Submissions

A. General Comments

There were 32 comments in response to the Notice of Proposed Rulemaking and four post-hearing submissions. As mentioned above, OSHA requested that commenters on the NPRM and participants in the public hearing submit information to support their comments and suggestions. The supporters and opponents of the proposed revisions, however, have generally expressed their positions by invoking general principles rather than by providing evidence that a particular provision did or did not contribute to the protection of employee safety and health. Therefore, insofar as additional information has not been forthcoming, OSHA bases its decision making on its careful review of the pertinent provisions.

Eight commenters supported the proposed rule as written [Exs. 4–1, 4–3, 4–8, 4–17, 4–19, 4–23, 4–25 and 4–31]. Two of these commenters, The American Paper Institute [Ex. 4–3] and Owens-Illinois (Ex. 4–19], specifically stated that no loss in worker safety would occur as result of the contemplated reduction of recordkeeping burdens. As the American Paper Institute put it, "The Completion of burdensome paperwork that fails to enhance safety of employees in any way is simply unnecessasry. . . ."

Three of these commenters [Exs. 4–1, 4–17, and 4–31] also stated that OSHA should further reduce recordkeeping burdens by revising additional provisions. The Associated General Contractors of America and the Small Business Administration [Exs. 4–17 and 4–31] provided lists of additional provisions that they felt should be considered for revision. While these additional provisions, most of which dealt with construction standards, have not been included in the Final Rule, OSHA will continue its efforts to identify provisions where the recordkeeping burdens could be reduced without reducing worker protection.

Commenters who opposed the proposal, such as the United Brotherhood of Carpenters and Joiners of America [Exs. 4–4, 4–7, and 14 and Tr. 55–56] and the International Union of Operating Engineers [Exs. 4–12 and 16 and Tr. 69–70 and 73–77], have stated that the retention of currently required records, is essential, or at least beneficial, to employee protection. The opponents stated that access to records enables workers to verify compliance with the substantive requirements of the standards. They, however, did not document a single instance where a hazardous situation was detected and cited or abated because an employee examined records.

The International Union of Operating Engineers, for example, testified [Tr. 121–124] that having the record of a previous inspection would be beneficial to a crane operator who was inspecting equipment. However, the union witness added that, even without the record, a good inspection would be done.

As OSHA has already noted, the recordkeeping requirements in the current or revised form are intended to provide assurance that employers have complied with the pertinent requirements for tests and inspections. OSHA has determined, based on its 15 years of experience enforcing these requirements, that requiring the employer to maintain the inspection record of a piece of equipment does not add to or detract from compliance with the requirements for tests and inspections. Indeed, the Operating Engineers presented testimony at the hearing [Tr. 92–93] which indicated that a crane operator provided with inspection record information would inspect the crane anyway and not rely on the inspection record when deciding whether or not the equipment was in safe condition. Also, the Operating Engineers provided examples of "bogus" recordkeeping to explain why a written record of a test or inspection would not provide assurance that the equipment in question was safe.

The Operating Engineers testified that in at least two cases violations of recordkeeping requirements led to serious violations [Tr. 73–74 and 93], but neither their testimony nor their post-hearing submission [Ex. 16] substantiated the existence of a causal link. In any event, OSHA is aware that employers occasionally violate the provisions of the the pertinent standards which require tests or inspections, whether or not they have complied with the recordkeeping provisions. The Operating Engineers, indeed, have mistakenly characterize all violations of the pertinent standards as recordkeeping violations [Ex. 16].

OSHA has issued very few citations where the employer has only violated the recordkeeping requirements. Most of the citations which have been issued for violations of standards that contain recordkeeping provisions were issued because the employer had violated the requirements to preform tests or inspections and remove unsafe equipment from service. Indeed, OSHA does not generally cite a recodkeeping

violation if it is not already citing a violation of the requirements for tests or inspections. Based on this experience OSHA has determined that its enforcement efforts will not be affected by the shift to certification.

In addition, the United Steelworkers of America testified that the required records are needed to establish preventive maintenance programs [Tr. 80–81]. OSHA agrees that the information generated through the work required by the pertinent standards may facilitate the operation of preventive maintenance programs, but the Agency notes, again, that it has determined that OSHA was interested solely in obtaining evidence of compliance with the work requirements when it adopted the recordkeeping provisions in question. The Agency further notes that there are only three provisions affected by this proposal which mention maintenance work, § 1910.217 (e)(1)(i), (e)(1)(ii) and § 1910.252(c)(6). Section 1910.217 (e)(1)(i) and (e)(1)(ii) require simply that the employer maintain "records of inspections and maintenance work performed." Section 1910.252(c)(6) requires that employers maintain records of periodic inspections performed by maintenance personnel. The language in those provisions is consistent with OSHA's determination that employers are only required to provide evidence that they have complied with the pertinent inspections, testing and maintenance requirements. OSHA has also determined that, aside from the provisions discussed above, any requirements for the operation of preventive maintenance programs are covered by separate regulatory provisions which are not affected by this rulemaking.

Furthermore, OSHA notes that the ANSI B11.1 Subcommittee on Safety Requirements for the Construction, Care and Use of Mechanical Power Presses, which produces the national consensus standard for power presses, has endorsed [Ex. 4–11] OSHA's proposed shift to certification of compliance with the U.S.C.requirements of § 1910.217 (e)(1)(i) and (e)(1)(ii). The B11.1 Subcommittee stated:

> We appreciate the reduction in preparing and maintaining the extensive and oftentimes burdensome records of information.

Finally, as OSHA stated at the public hearing, "Just because a particular piece of equipment was in safe condition 29 days ago does not mean it is in safe condition today." [Tr. 18]. Regardless of any record of a previous inspection test or maintenance check, OSHA requires the employer to conduct each scheduled test, inspection or maintenance check with such thoroughness that it would disclose any deficiency in the equipment. The pertinent requirements that employers remove from use equipment found to be unsafe at that time or likely to pose a danger between that time and the time of the next scheduled test, inspection or maintenance check are not affected by this rulemaking. Therefore, the protection provided by maintenance programs will not be diminished.

Critics of the proposed revisions have defended the existing requirements by noting that they impose light burdens, and have not evoked complaints from the affected employers [Exs. 4–4, 4–16, Tr. 56 and 69]. They have also stated that employers will keep the pertinent records despite revisions in the requirements in order to protect themselves from lawsuits arising out of equipment accidents, to document their compliance certifications and to schedule maintenance. OSHA appreciates these concerns but notes that they do not reflect the purposes for which the recordkeeping requirements were originally promulgated. These revisions should make it clear that employers who continue to prepare and maintain detailed records are doing so for their own reasons and not to comply with OSHA requirements.

The process by which OSHA decided to revise each of the provisions covered by this rulemaking is discussed in the Summary and Explanation (see Section IV, below).

B. Contemporaneous "Three Data Point" Certification as an Alternative to Certification Upon Request

As has already been discussed in the Background section (see Section I, above), the contemporaneous "three data point" certification approach came to OSHA's attention through comments on the NPRM which pointed out the difficulty and temptation an employer would face in properly certifying, after the fact, that the required work had been done [Exs. 4–4, 4–5, 4–16 and 4–22].

Four commenters wrote that they supported the concept behind paperwork reduction [Exs. 4–2, 4–5, 4–22 and 4–30], but expressed concern that some employers would take advantage of the proposed revisions to relax or discontinue their compliance efforts. Those employers would then certify that they had complied, confident that OSHA would not discover their false certifications. For example, the Engineered Products Division of Acme Electric Corporation [Ex. 4–2] wrote, "Human behavior being what it is will create the temptation, and in many cases the actual neglect of inspection and repair of equipment."

In addition to asserting that the proposed revision would reduce compliance and the protection of employees, as discussed above, four commenters [Exs. 4–4, 4–10, 4–16 and 4–30] who opposed the proposal also mentioned the risk of false certification as a basis for OSHA withdrawing the proposed revisions.

Four commenters [Exs. 4–15, 4–22, 4–28, and 4–29] suggested that employers be given the option to choose between maintaining detailed records as they do now and preparing certifications upon request. The American Petroleum Institute (API) [Ex. 4–22], for example, commented that the certification option would "be of greatest value to the small employer, where the certifying person would have first hand knowledge . . . that the required tests, etc., were performed." API also noted that "an interesting hybrid of the options would involve having an authorized employer representative . . . sign a certification that particular tests were done, as they were completed."

Also, five commenters [Exs. 4–6, 4–10, 4–12, 4–14, and 4–23] stated that the proposed certification upon request requirement would increase paperwork burdens for many employers. They stated that employers would continue to prepare detailed records and that, under the proposed standard, the certification statement prepared at the time of an OSHA inspection would be an additional paperwork burden because their detailed records would not be acceptable as evidence of compliance.

As stated above, under the final rule, if employers elect to continue to maintain detailed records for their own purposes, OSHA would be satisfied if the three data elements were included in their detailed records.

Three data point certification was discussed in the hearing notice as "Issue 5" and received a considerable amount of attention at the Apil 15, 1986, hearing [Tr. 20–21, 43–46 and 125–127] as well as in post hearing submissions [Exs. 14 and 15]. While the union comments and testimony on three data point certification echoed their general opposition to this rulemaking, OSHA notes that the United Brotherhood of Carpenters and Joiners of America has stated that contemporaneous certification would be superior to the "certification upon request" proposed in the NPRM. [Exs. 4–4, 8, and Tr. 59].

Parties who favor certification, such as the American Waterways Shipyard Conference (AWSC) and its members, responded favorably to the three data

point approach [Ex. 15]. The AWSC observed, when referring to the contemporaneous certification record, that "The proposed alternative also follows the current format being developed for the industry by OSHA in the shipyard vertical standards."

OSHA notes that this three data point approach, like the approach proposed in the NPRM, qualifies as a form of certification which, under the terms of 5 CFR 1320.7(k)(1), is excluded from the definition of "information," for the purposes of the Paperwork Reduction Act. Therefore, OSHA has determined that the certification record requirement, as promulgated, is consistent with the purposes and provisions of the Paperwork Reduction Act.

OSHA has decided, based on the comments, testimony, and other materials in the record, to reduce the paperwork burdens in question by requiring that employers prepare their certifications of compliance at the time they perform the required work, rather than by permitting employers to produce them after the fact. The Agency agrees with the commenters who expressed concern that certification upon request would create too many opportunities for error or deception. OSHA will use the term "certification record" to distinguish this new form of documentation from the detailed records previously required.

As discussed in the Background section, above, the certification record must contain the date the work was performed, the signature of the person who performed the work, and an indentifier for the equipment which was tested or inspected. Employers must maintain the contemporaneous certification record and make it available for review at the time of an OSHA inspection.

The contemporaneous certification record may be kept in any way that identifies each piece of equipment inspected or tested and that contains the signature of the person who performed the work and the date the work was performed. For example, a list of the pieces of equipment which were inspected would only have to be signed and dated once if the same person performed all of the inspections and/or tests on the same date. With such a list, the person performing the inspections or tests would not have to sign and date a separate record identifying each piece of equipment.

If the employer tracks inspections and/or tests with automated data processing, then compliance could be achieved by signing and dating a printout of equipment identifiers, if, as above, the same person performed all of the inspections on the same date. The computer printout would, of course, have to be maintained and made available for review at the time of an OSHA inspection.

Employers can comply with this certification requirement in the manner which least disrupts their operations. They may find that they need to place a tag on the equipment in question or they may find that addition of an entry to a checklist or log they already maintain will suffice. Some employers may even find that they do not need to change their recordkeeping methods to comply with these revised requirements. The certification record will be prepared and signed by the person who actually performs the test or inspection and will be completed at the time of the test or inspection.

OSHA has retained the original language of the revised paragraphs except where changes are necessary to clearly indicate the revision of the recordkeeping requirements.

C. Consistency with National Consensus Standards

Several participants in this rulemaking stated that the revised recordkeeping requirements proposed by OSHA deviate from the parallel national consensus standards. Under the terms of section 6(b)(8) of the OSH Act, the Agency must explain why an OSHA standard which differs substantially from a national consensus standard effectuates the purposes of the OSH Act better than the national consensus standard does.

The BCTD, AFL–CIO, [Ex. 4–16] commented that national consensus standards committees have retained the pertinent recordkeeping provisions in their standards and that these standards represent industry practice for the protection of employee safety and health. The BCTD further noted that employers are represented on the committees which produce national consensus standards. Therefore, given the broad basis for the consensus standards, the BCTD stated that OSHA's standards should follow the consensus standards.

In addition, the United Steelworkers of America [Ex. 4–24] stated, ". . . if there was no need to maintain these records, it would be reflected in the national consensus standards.

In its hearing testimony, the United Brotherhood of Carpenters and Joiners of America [Tr. 54–55] cited the requirements of section 6(b)(8) and stated, "In this case, all of the recordkeeping requirements derived from national consensus standards—ANSI, NFPA, etc.—are retained by the current version of those consensus standards."

OSHA has determined, based on its review of the applicable national consensus standards, that the revised recordkeeping requirements adopted in this rulemaking are either consistent with the requirements imposed by the national consensus standards, or, in any event, not substantially different from them. Therefore, the section 6(b)(8) requirement that OSHA explain divergence from national consensus standards does not apply to this rulemaking. In addition, OSHA has determined that the pertinent recordkeeping provisions, as revised, effectuate the purposes of the OSH Act better than do the parallel national consensus standards, insofar as they may substantially differ, because the Agency has determined that the existing recordkeeping requirements do not directly contribute to worker safety and health and, therefore, unnecessarily burden employers.

In particular, OSHA has determined that the ANSI committees which are responsible for updating the pertinent consensus standards have, generally, eliminated the recordkeeping requirements upon which the pertinent OSHA recordkeeping requirements were based. For example, the ANSI committees covering crane and derrick operations have changed their recordkeeping requirements so that inspections performed at least every 30 days are considered "frequent" and do not carry any recordkeeping burdens. OSHA has determined that the crane and derrick equipment inspections required under the provisions proposed for revision are "frequent." Therefore, OSHA's revised recordkeeping requirements are consistent with the provisions of the parallel ANSI standards. A more detailed discussion of the actions taken by the relevant ANSI committees to reduce recordkeeping burdens follows.

The source standard for §§ 1910.179(j)(2) (iii) and (iv) is the ANSI B30.2.0–1967 Standard for Overhead and Gantry Cranes. This standard, in section 2–2.1.2 under items 4 and 5, requires monthly inspection with signed reports for both hooks and chains. This is identical to the language used by OSHA in its standard. ANSI B30.2.0 was last revised in 1983. Section 2–2.1.2 of the revised ANSI standard continues the inspection requirements, but has dropped the requirements to maintain records on these frequently inspected items. The revised ANSI B30.2.0–1983 standard retains recordkeeping provisions only for quarterly and yearly

inspections, which are referred to as periodic inspections in section 2–2.1.3.

ANSI B30.2.0–1967 is also the source standard for §§ 1910.179(m) (1) and (2), which cover running ropes and other ropes on overhead and gantry cranes. The OSHA standard, like the original ANSI standard, currently requires that a monthly full written, dated, and signed report of rope condition (for running ropes) be kept on file where readily available to appointed personnel and that rope which has been idle for a month or more be inspected and that a written and dated report of rope condition be available.

In 1976, this ANSI standard was revised, eliminating the monthly report of rope condition for running ropes and requiring a report on rope condition of idle rope only when the rope has been idle for six months or more.

ANSI B30.2.0 was last revised in 1983. The current edition contains no recordkeeping requirements for frequently (daily to monthly) inspected items. Records are only required for periodic (quarterly to yearly) inspections. In those cases, the ANSI standard calls for "dated inspection reports or comparable records shall be made on critical items such as . . . ropes . . ."

The source for § 1910.180(d)(6) which requires written, dated, and signed inspection reports and records to be made monthly on critical components is section 5–2.1.5 of the ANSI B30.5–1968, Standard for Crawler, Locomotive and Truck Cranes.

The 1982 revision of the ANSI standard changes the language in section 5–2.1.5 to read "Dated records for periodic inspections shall be made . . ."

Again, OSHA notes, the ANSI standard, as revised, reflects the same concern for paperwork reduction which motivated OSHA to initiate this rulemaking.

The ANSI B30.5–1968 is also the source standard for §§ 1910.180 (g)(1) and (g)(2)(ii), which regulate running and idle ropes for crawler and locomotive cranes. Section 1910.180(g)(1), like section 5–2.4.1 of the B30.5–1968 standard, currently requires that the employer keep a monthly, full written, dated, and signed report of rope condition on file. Section 1910.180(g)(2)(ii), like the source standard, requires a written and dated report of rope condition for rope which has been idle for a month or more.

ANSI B30.5–1982, in section 5–2.4.3, paragraph (e), Inspection Records, reads as follows:

(1) *Frequent Inspection.* No record required.

(2) *Periodic Inspection.* In order to establish data as a basis *for judging the proper time for replacement,* a dated report of rope condition for each *periodic inspection* shall be kept on file . . . If the rope is replaced, only that part need be recorded.

ANSI defines frequent inspection to mean daily to monthly intervals. OSHA has determined that the inspection requirements of §§ 1910.180 (g)(1) and (g)(2)(ii) involve "frequent" inspection. Therefore, the current ANSI standard, once again, reflects the concern for reducing paperwork burdens which led OSHA to initiate this rulemaking.

The ANSI B30.6–1969 Standard for Derricks, section 6–2.4 is the source for §§ 1910.181 (g)(1) and (g)(3), which cover running and idle ropes on derricks. These paragraphs, like the crane provisions discussed above, currently require employers to prepare a full written, dated, and signed report of rope condition monthly for running ropes and a written and dated report of rope condition for ropes which have been idle a month or more.

ANSI B30.6 was last revised in 1984. Section 6–2.4 of ANSI B30.6–1984, under paragraph (e) *Inspection Records* for ropes, states that there are "no records required" for frequent inspection (daily to monthly). Records for preventive maintenance, however, are recommended "in order to establish data as a basis for judging the proper time for replacement . . ."

ANSI B11.1–1971 is the source standard for §§ 1910.217(e)(1) (i) and (ii) on mechanical power presses. As mentioned earlier, OSHA received a comment from the ANSI B11.1 Subcommittee on Mechanical Power Presses which endorsed the changes regarding recordkeeping for mechanical power presses [Ex. 4–11].

ANSI B24.1–1971, section 6.1, is the source for the provisions of §§ 1910.218(a)(2) (i) and (ii) which are covered by this rulemaking. Section 6.1 states that employers are responsible for "(1) Establishing periodic and regular maintenance safety checks and *keeping records* of these inspections. (2) Scheduling *and recording* inspection of guards and point-of-operation protection devices at frequent and regular intervals."

The 1985 edition of the B24.1, section 6.1, states that employers are responsible for "(1) Establishing periodic and regular maintenance safety checks, (2) inspecting the guards and point-of-operation protection devices regularly."

ANSI has evidently dropped the recordkeeping requirements from both of these provisions. OSHA notes that ANSI considers it good practice to keep records, while at the same time, ANSI has eliminated the recordkeeping provision from its standard.

ANSI Z49.1–1967, Safety in Welding and Cutting, is the source for § 1910.252(c)(6), another recordkeeping requirement covered by this rulemaking. This standard, in section 5.6.1 states "Periodic inspection shall be made by qualified personnel, and *records* of the same maintained . . ." The latest edition of this standard is the Z49.1–1983 which states in section 12.7 that "Periodic inspections and necessary repairs shall be made by authorized personnel." Again, ANSI has eliminated the recordkeeping requirement.

D. Cost Savings

Several parties [Exs. 4–4, 4–12, 4–24, 16 and Tr. 69] disputed OSHA's calculation of the time and money saved by converting from recordkeeping to certification. The United Steelworkers of America [Ex. 4–24] commented, "The actual transcription of information to a prepared form, which is only what would be eliminated, takes only a matter of seconds per piece of equipment." In addition, the International Union of Operating Engineers [Ex. 16] stated that an employer could comply with the recordkeeping requirements related to the inspection of a manlift, § 1910.68(e)(3), "in less than a minute."

OSHA notes that its calculations for each recordkeeping requirement have been available for examination in the public docket so that any deficiencies could be brought to OSHA's attention. The critics of the proposed revisions have provided alternative calculations for only two of the 23 provisions originally proposed for revision.

As OSHA has already noted, some of these recordkeeping requirements do not necessarily impose large burdens. On the other hand, some of the recordkeeping requirements, especially when the cumulative burden is calculated, impose large burdens. OSHA has determined that the recordkeeping burdens imposed by the provisions subject to this rulemaking are unnecessary, given the purposes for which they were adopted and OSHA's responsibility under the Paperwork Reduction Act and section 8(d) of the OSHA Act to minimize recordkeeping burdens. The existence of divergent views regarding the size of the burdens does not affect OSHA's determination that the burdens in question do not directly contribute to employee safety and health and are, therefore, unnecessary.

OSHA concedes that the calculation of time and money costs for recordkeeping requirements is not an exact science, but the Agency believes that there are substantial real world bases for its conclusions. Therefore, OSHA relies on its calculations of the savings to employers in promulgating this final rule. The SF–83 forms which were submitted to OMB, in order to quantify and justify the burdens imposed by the pertinent recordkeeping requirements, are part of the record for this proceeding [Ex. 3].

A number of other commenters, who supported a shift to certification, asserted that the proposed revisions would lead to cost savings. For example, the Air Transport Association [Ex. 4–23] commented that the revisions "to some extent, would reduce the paperwork involved." In addition, the ANSI B11.1 Committee [Ex. 4–11] stated, "We appreciate the reduction in preparing and maintaining the extensive and oftentimes burdensome records of information."

Therefore, OSHA is confident that the revisions to the recordkeeping requirements covered by this rulemaking will reduce the expense and the time required for employers to comply with those requirements to a level where the necessary information is "obtained with a minimum burden upon employers" [section 8(d) of the OSHA Act].

IV. Summary and Explanation

Section 1910.68(e)(3)—Inspection of Manlifts. The existing standard requires the employer to keep a written record of the findings from each manlift inspection. It also requires that the employer make the inspection record available to the Assistant Secretary of Labor or his duly authorized representative.

The revised standard eliminates the need to record the findings and requires instead that the record provide the date of inspection, the signature of the person who performed the inspection, and the identity of the manlift that was inspected. OSHA has determined that there will be no reduction in the protection of worker safety because §1910.68(e)(1) still requires that manlifts be inspected by a competent, designated person at intervals of not more than 30 days and that "Manlifts found to be unsafe shall not be operated until properly repaired."

In addition, §1910.68(e)(2) lists 22 components of a manlift system that are covered by this inspection requirement and also provides that other items not in the list might also require inspection to ensure the safe operation of the manlift.

OSHA believes that the requirements of §1910.68(e) as revised are stated very clearly. If an employer determines, that the manlift, while not yet unsafe, should be inspected again before 30 days have passed, the employer is responsible to have another inspection performed within the 30 day period. Therefore, if the manlift failed between inspections, it would be because the employer did not act on the results of an inspection, not because the employer failed to record that a condition requiring attention has been found.

OSHA notes that paragraph (e)(3), even before revision, did not require the employer to record what action, if any, was taken in response to the inspection findings.

Section 1910.106(g)(1)(i)(g)—Inventory of Service Station Storage Tanks. OSHA proposed to revoke this provision for service station employers to maintain and reconcile accurate inventory records on all Class I liquid storage tanks because it is designed to provide general public protection and is not directed at protection of employees. As such, OSHA believes that a requirement such as this is most appropriately imposed by local and state authorities, not by OSHA. [See Ex. 4–6.]

OSHA received two comments supporting the proposed revocation [Exs. 4–15 and 4–19] and three comments opposing revocation [Exs. 4–4, 4–16, and 4–24].

In Issue #2 of the public hearing notice, OSHA asked for information regarding the contention that the purpose of §1910.106(g)(1)(i)(*g*) was to protect employees from fire and explosion hazards. OSHA specifically requested information regarding any service station fires or explosions related to this recordkeeping requirement or any other information documenting the need for the requirement and appropriateness of OSHA's continuing to regulate in this area.

No information was submitted on this issue, either in the responses to the NRPM or the hearing notice, at the hearing or in the post-hearing submissions. As far as OSHA can determine, there have been no service station fires or explosions due to leaking underground tanks. In addition, OSHA notes that this is an area where state and local regulations already cover virtually all underground gasoline storage tanks. Therefore, based on its review of the record, OSHA is revoking paragraph (g)(1)(i)(*g*) of § 1910.106.

Section 1910.157—Hydrostatic Testing of Fire Extinguishers. The revised standard differs from the original standard by eliminating the requirement that the employer record the pressure used when fire extinguishers are hydrostatically tested. Fire extinguisher manufacturers include the test pressure information on the label which is affixed to the fire extinguisher when distributed. Thus, the employer already has the test pressure information needed to test the extinguisher, so there is no need to prepare or maintain a separate record. Therefore, the requirement to record the test pressure unnecessarily burdens the employer.

The revised standard requires that, after the periodic hydrostatic test has been performed, the employer prepare a certification record which contains the date of the test, the signature of the person who performed the test and the identity of the fire extinguisher which was tested. The requirement in § 1910.157(f) that employers ensure that portable fire extinguishers are hydrostatically tested at the specified intervals remains in effect, so there will be no reduction in the protection of worker safety.

Section 1910.179(j)(2)(iii)—Inspection of Hooks on Overhead and Gantry Cranes. The existing standard requires the employer to prepare a signed report of the monthy inspection of crane hooks. The requirement is silent on what constitutes a signed report. Employers might conclude that a signed notation indicating the inspection has been performed is a signed report. Or, employers might conclude that a signed report is a detailed discussion of the condition of the equipment inspected.

The revised standard eliminates the word "report" and instead requires a certification record of the inspection which includes the date of inspection, the signature of the person who performed the inspection and the identity of the hook that was inspected. The revised standard clarifies what information is required, eliminating any burden that might previously have been imposed due to ambiguity. There will be no reduction in the protection of worker safety because the criteria for determining when to remove or replace hooks provided in paragragh (1)(3)(iii)(*a*) ("Crane hooks showing defects described in paragraph (j)(2)(iii) of this section shall be discarded") remain in effect.

OSHA is also correcting a typographical error in this paragraph. The reference to paragraph (j)(1)(3)(iii)(*a*) printed in the current standard is corrected to read paragraph (1)(3)(iii)(*a*).

Section 1910.179(j)(2)(iv)—Inspection of Hoist Chains on Overhead and Gantry Cranes. The existing standard

requires a monthly inspection of hoist chains with signed report. As with (j)(2)(iii), just discussed, it does not describe or explain what information is to be included in the "report." Thus, an employer may reach either of the two above mentioned conclusions in preparing the report required by this provision.

The revised standard will eliminate the "report" and require instead that a certification record be prepared which includes the date of inspection, the signature of the person who conducted the inspection and the identity of the chain inspected. As with the preceding paragraph, OSHA clearly states what the record must contain, removing uncertainty. There will be no reduction in the protection of worker safety because the requirement in paragraph (1)(3)(iii)(*b*) to repair or replace hoist chains which show defects described in paragraph (j)(2)(iv) remains in effect.

Sections 1910.179(m)(1); 1910.180(g)(1) and 1910.181(g)(1)—Inspection of Running Ropes on Cranes and Derricks. In the existing standards covering different types of cranes and derricks, these identical provisions require the employer to inspect running ropes monthly and prepare a full written, dated. and signed report of rope condition.

The revised standards have been rewritten for clarity and to eliminate the requirement to prepare full written, signed reports of rope condition and instead require that, after the inspection, the employer prepare a certification record which includes the date of the inspection, the signature of the person who performed the inspection and the identity of the crane or derrick which was inspected. The requirements contained in each of these provisions that the employer determine "whether further use of the rope would constitute a safety hazard" remains in effect. Therefore, OSHA has determined that the protection of employee safety will not be adversely affected by these revisions.

Sections 1910.179(m)(2); 1910.180(g)(2); and 1910.181(g)(3)—Inspection of Idle Ropes on Cranes and Derricks. In the existing standards, these three provisions require the employer to inspect ropes which have been idle for a month or more before they are placed in service and to prepare a written and dated report of rope condition.

The revised standards will eliminate the requirement to prepare reports of rope condition and instead require that after the inspections have been made, the employer prepare a certification record which includes the date of the inspection, the signature of the person who performed the inspection and the identity of the crane or derrick which was inspected. The requirement contained in each of these provisions that the inspection be performed by an appointed or authorized person whose approval shall be required for further use of the rope has not changed, thus there will be no reduction in worker safety.

Additionally, the words "placed in service" have been replaced with "used" to clarify that the ropes are to be inspected before actual usage, whether or not the ropes had ever been used before.

Section 1910.180(d)(6)—Inspection of Critical Items on Crawler, Locomotive, and Truck Cranes. The existing standard requires the employer to prepare written, dated, and signed inspection reports and records on a monthly basis on critical items in use such as brakes, hooks and ropes. This provision could be interpreted to mean a written statement, signed and dated to verify the inspection has been performed, or it could mean a complete description of the findings of the items inspected.

The revised standard will clarify that provision by changing the language "written, dated, and signed inspection reports and records . . . " to a requirement that a monthly certification record which includes the date of inspection, the signature of the person who performed the inspection and the identity of the crane that was inspected be prepared.

The requirement in § 1910.180(d)(3) to perform inspections for defects at intervals defined or as specifically indicated including observation during operation for any defects which might appear between regular inspections has not been changed. There has also been no change in the requirement in paragraph (d)(3) that any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard. Thus, there will be no reduction in worker safety.

Section 1910.217(e)(1)(i)—Inspection of Power Presses. The existing standard requires the employer to establish a program of periodic and regular inspections and maintain records of these inspections and the maintenance work performed.

The revised standard will eliminate the requirement to prepare a record of the maintenance work performed and require only that a certification record be maintained which includes the date of inspection, the signature of the person who made the inspection and the identity of the power press that was inspected. Section 1910.217(e) also requires that all parts, auxilliary equipment, and safeguards are in a safe operating condition and adjustment. Compliance with this portion of the provision will ensure that no loss in safety occurs.

Section 1910.217(e)(1)(ii)—Inspection and Test of Power Press Components. The existing standard requires the employer to conduct a weekly inspection and test of certain functions on power presses and to maintain records of the inspections and the maintenance work performed.

The revised standard will eliminate the requirement to prepare a record of the maintenance work performed and instead require the employer to maintain a certification record which includes the date of inspection or maintenance, the signature of the person performing the inspection or maintenance, and the identity of the power press inspected or maintained. There will be no reduction of worker safety because the requirement that necessary maintenance or repair or both shall be performed and completed before the press is operated will remain in effect.

Section 1910.218(a)(2)(i)—Inspection of Forging Machines. The existing standard requires employers to establish periodic and regular maintenance safety checks of forging machines and to keep records of those inspections. The standard is silent regarding what constitutes a record. Employers could interpret this requirement as requiring either very little information or a considerable amount of information.

The revised standard will clarify this provision by clearly stating that the employer shall maintain a certification record which includes the date the machine was inspected, the signature of the person who inspected the machine and the identity of the forging machine that was inspected. There will be no reduction in protection of worker safety because § 1910.218(a)(2) still requires that employers "maintain" forge shop equipment in a condition which will insure continued safe operation.

Section 1910.218(a)(2)(ii)—Inspection of Guards and Point of Operation Devices on Forging Machines. The existing standard requires the employer to schedule and record inspections of guards and point of operation protection devices. Here again, the provision is silent regarding what constitutes a record or how to record an inspection. Employers could also interpret this requirement as requiring either very little information or a considerable amount of information.

The revised standard will clarify this provision and clearly state that the employer shall maintain a certification record of the date of inspection, the signature of the person who performed the inspection and the identity of the machine that was inspected. There will be no reduction in protection of worker safety because § 1910.218(a)(2) still requires that employers "maintain" forge shop equipment in a condition which will insure continued safe operation.

Section 1910.252(c)(6)—Inspection of Welding Equipment. The existing standard requires that employers periodically inspect their welding equipment and maintain records of those inspections. Again, the paragraph does not specify what information must be included in the record.

The revised standard will clarify this requirement and clearly state that the employer shall maintain a certification record of the date of inspection, the signature of the person who performed the inspection and the identity of the welding equipment. There will be no reduction of worker safety because the requirement in § 1910.252(d)(6) that "the operator shall be instructed to report any equipment defects to his supervisor and the use of the equipment shall be discontinued until safety repairs have been completed," remains in effect.

Section 1910.440(a)(1)—Diving Records. OSHA proposed to revoke this provision in the diving standard because it simply reiterates the employer's obligation to comply with the recordkeeping requirements of 29 CFR Part 1904 of the OSHA regulations and the requirements outlined in § 1910.440(a)(2). This is the only standard in 29 CFR Part 1910 that contains such cross referencing.

Section 1910.440(a)(1) was adopted in 1977 when OSHA promulgated the diving standards. The diving standard, as proposed, contained numerous recordkeeping requirements, so OSHA was concerned that some employers might conclude that their obligations under Part 1904 were being changed.

Because of this, OSHA added a provision referencing Part 1904 and explained in the preamble to the final diving standard that OSHA was adding this provision to remind employers that they must comply with both Part 1904 and § 1910.440(a)(2).

On December 28, 1982, (47 FR 57699) OSHA amended Part 1904 by adding, among other things, a new § 1904.16. This new section excluded certain employers, depending on their Standard Industrial Classification (SIC) codes, from some of the recordkeeping requirements of Part 1904. There are some employers of divers in the excluded SIC codes.

The United Brotherhood of Carpenters and Joiners of America as well as the United Steelworkers of America [Exs. 4–4, 4–7 and 4–24] maintain that OSHA's cross reference to Part 1904 in § 1910.440(a)(1) requires employers to comply with all of Part 1904 notwithstanding the exemption provided by § 1904.16. OSHA notes that there is no basis for this contention. The reference to Part 1904 in § 1910.440(a)(1) was merely intended as a reminder to employers that, in addition to the particular recordkeeping requirements in the diving standard, they were also subject to the general recordkeeping requirements applicable to all employers contained in Part 1904. When Part 1904 was amended in December 1982, the amendment was effective for all employers covered by Part 1904, including diving industry employers. If the Carpenters and Steelworkers unions objected to the proposed amendments to Part 1904, the time for them to have raised their concerns was when OSHA was considering its revision of Part 1904.

Therefore, OSHA is revoking paragraph (a)(1) of § 1910.440.

Section 1915.113(b)(1)—Testing of hooks. The existing standard requires shipyard employers to test certain hooks (those for which the manufacturer has not specified a safe working load) and maintain a record of the test. The current standard is unclear as to what information should be included in the record of the test.

The revised standard will clarify this requirement by requiring the employer to maintain a certification record of the date of the test, the signature of the person who performed the test and the identity of the hook tested. There will be no reduction of worker safety because the requirement that the employer test the hook at twice its intended safe working load before putting it to use remains in effect. In addition § 1915.113(b)(3) requires that "Hooks shall be inspected periodically to see that they have not been bent by overloading. Bent or sprung hooks shall not be used."

Section 1915.172(d)—Inspection and Tests of Unfired Pressure Vessels. The existing standard requires shipyard employers to perform a hydrostatic test of portable unfired pressure vessels yearly and to maintain records of those tests. The existing standard also requires employers to examine certain pressure vessels quarterly. The employer is required to maintain a record of this examination. Again, OSHA has not specified what information should be included in this record.

The revised standard will clarify that the employer must maintain a certification record of the date of the examination or test, the signature of the person who performed the test or examination, and the identity of the pressure vessel that was examined or tested. OSHA notes that the requirement to conduct the tests and examinations remains in effect. Furthermore, § 1915.172(c) still requires that relief valves on the pressure vessels be set to the safe working pressure of the vessels, or set to the lowest safe working pressure of the system, whichever is lower. Therefore, OSHA has determined that worker safety will not be diminished through the promulgation of the revised recordkeeping requirements.

V. Regulatory Impact Assessment

OSHA has determined that this rule is not a "major rule" under Executive Order 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. Therefore, no regulatory impact analysis is required.

VI. Regulatory Flexibility Analysis

One commenter, the Chief Counsel for Advocacy of the Small Business Administration, questioned whether OSHA should prepare a regulatory flexibility analysis of this rule under sections 603 and 605 of the Regulatory Flexibility Act (5 U.S.C. 603, 605) which require that such an analysis be performed unless the agency certifies that the rule will not "have a significant economic impact on a substantial number of small entities." [Ex. 4–31].

After further review of the relevant information, OSHA concludes that a regulatory flexibility analysis is not necessary. OSHA estimates that general industry (including shipyards) expends approximately 20 million dollars annually in complying with those recordkeeping provisions which will be revised by this rule. OSHA also estimates that compliance costs after this rule is promulgated will be approximately 3.5 million dollars annually, for a total economic impact differential of 16.5 million dollars

annually. As this total economic impact will generally be distributed over a variety of numerous nonconstruction workplaces, it can be concluded that this rule will not have a significant economic impact on a substantial number of small entities.

VII. OMB Approval Under the Paperwork Reduction Act

The revisions are not subject to the Paperwork Reduction Act because they are certifications as defined in 5 CFR 1320.7(k)(1) and, therefore, are not covered by the Paperwork Reduction Act or the implementing regulations. Hence, OMB approval under the Paperwork Reduction Act is not required.

VIII. State Plan States

The 25 States and territories with their own OSHA-approved occupational safety and health plans must revise their existing standards within six months of the publication date of the final standard or show OSHA why there is no need for action, e.g., because an existing State standard covering this area is already "at least as effective" as the revised Federal standard. These 25 States and territories are: Alaska, Arizona, California, Connecticut [1], Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York [1], North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 6(b), 8(c), 8(d) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), Section 41 of the Longshoremen's and Harbor Workers Compensation Act, (33 U.S.C. 941), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR Part 1911, OSHA is amending 29 CFR Parts 1910 and 1915 as set forth below.

Signed at Washington, DC, this 23rd day of September 1986.

John A. Pendergrass,
Assistant Secretary of Labor.

[1] Plan covers only State and local government employees.

List of Subjects in 29 CFR Parts 1910 and 1915

Certification, Occupational safety and health, Recordkeeping, Safety.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

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

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

Sections 1910.66, 1910.67, 1910.68 and 1910.70 also issued under 29 CFR Part 1911.

2. In § 1910.68, paragraph (e)(3) is revised to read as follows:

§ 1910.68 Manlifts.

* * * * *

(e) * * *

(3) *Inspection record.* A certification record shall be kept of each inspection which includes the date of the inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the manlift which was inspected. This record of inspection shall be made available to the Assistant Secretary of Labor or a duly authorized representative.

3. The authority citation for Subpart H of Part 1910 continues to read as follows:

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

Sections 1910.106, 1910.107, 1910.108 and 1910.109 also issued under 29 CFR Part 1911.

§ 1910.106 [Amended]

4. In § 1910.106, paragraph (g)(1)(i)(*g*) is removed and reserved.

5. The authority citation for Subpart L of Part 1910 is revised to read as follows:

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

Sections 1910.157, 1910.158, 1910.159, 1910.160 and 1910.161 also issued under 29 CFR Part 1911.

6. In § 1910.157, paragraph (f)(16) is revised to read as follows:

§ 1910.157 Portable fire extinguishers.

* * * * *

(f) * * *

(16) The employer shall maintain and provide upon request to the Assistant Secretary evidence that the required hydrostatic testing of fire extinguishers has been performed at the time intervals shown in Table L–1. Such evidence shall be in the form of a certification record which includes the date of the test, the signature of the person who performed the test and the serial number, or other identifier, of the fire extinguisher that was tested. Such records shall be kept until the extinguisher is hydrostatically retested at the time interval specified in Table L–1 or until the extinguisher is taken out of service, whichever comes first.

* * * * *

7. The authority citation for Subpart N of Part 1910 is revised to read as follows:

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

Sections 1910.177 1910.178, 1910.180, 1910.181, 1910.183, 1910.184, 1910.189 and 1910.190 also issued under 29 CFR Part 1911.

8. In § 1910.179, paragraphs (j)(2)(iii), (j)(2)(iv), (m)(1) introductory text and (m)(2) are revised and the italicized heading of paragraph (m) is republished to read as follows:

§ 1910.179 Overhead and gantry cranes.

* * * * *

(j) * * *

(2) * * *

(iii) Hooks with deformation or cracks. Visual inspection daily; monthly inspection with a certification record which includes the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the hook inspected. For hooks with cracks or having more than 15 percent in excess of normal throat opening or more than 10° twist from the plane of the unbent hook refer to paragraph (1)(3)(iii)(*a*) of this section.

(iv) Hoist chains, including end connections, for excessive wear, twist, distorted links interfering with proper function, or stretch beyond manufacturer's recommendations. Visual inspection daily; monthly inspection with a certification record which includes the date of inspection, the signature of the person who performed the inspection and an identifier of the chain which was inspected.

* * * * *

(m) *Rope inspection.*—(1) *Running ropes.* A thorough inspection of all ropes shall be made at least once a month and a certification record which includes the

date of inspection, the signature of the person who performed the inspection and an identifier for the ropes which were inspected shall be kept on file where readily available to appointed personnel. Any deterioration, resulting in appreciable loss of original strength, shall be carefully observed and determination made as to whether further use of the rope would constitute a safety hazard. Some of the conditions that could result in an appreciable loss of strength are the following:

* * * * *

(2) *Other ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given a thorough inspection before it is used. This inspection shall be for all types of deterioration and shall be performed by an appointed person whose approval shall be required for further use of the rope. A certification record shall be available for inspection which includes the date of inspection, the signature of the person who performed the inspection and an identifier for the rope which was inspected.

* * * * *

9. In § 1910.180, paragraphs (d)(6), (g)(1) introductory text and (g)(2)(ii) are revised and the italicized heading of paragraph (g) is republished to read as follows:

§ 1910.180 Crawler, locomotive and truck cranes.

* * * * *

(d) * * *

(6) *Inspection records.* Certification records which include the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the crane which was inspected shall be made monthly on critical items in use such as brakes, crane hooks, and ropes. This certification record shall be kept readily available.

* * * * *

(g) *Rope inspection.*—(1) *Running ropes.* A thorough inspection of all ropes in use shall be made at least once a month and a certification record which includes the date of inspection, the signature of the person who performed the inspection and an identifier for the ropes shall be prepared and kept on file where readily available. All inspections shall be performed by an appointed or authorized person. Any deterioration, resulting in appreciable loss of original strength shall be carefully observed and detemination made as to whether further use of the rope would constitute a safety hazard. Some of the conditions that could result in an appreciable loss of strength are the following:

* * * * *

(2) * * *

(ii) All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given a thorough inspection before it is used. This inspection shall be for all types of deterioration and shall be performed by an appointed or authorized person whose approval shall be required for further use of the rope. A certification record which includes the date of inspection, the signature of the person who performed the inspection, and an identifier for the rope which was inspected shall be prepared and kept readily available.

* * * * *

10. In § 1910.181, paragraphs (g)(1) introductory text and (g)(3) are revised and the italicized heading of paragraph (g) is republished to read as follows:

§ 1910.181 Derricks.

* * * * *

(g) *Rope inspection.*—(1) *Running ropes.* A thorough inspection of all ropes in use shall be made at least once a month and a certification record which includes the date of inspection, the signature of the person who performed the inspection, and an identifier for the ropes which were inspected shall be prepared and kept on file where readily available. Any deterioration, resulting in appreciable loss of original strength shall be carefully observed and determination made as to whether further use of the rope would constitute a safety hazard. Some of the conditions that could result in an appreciable loss of strength are the following:

* * * * *

(3) *Idle ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a derrick on which it is installed shall be given a thorough inspection before it is used. This inspection shall be for all types of deterioration. A certification record shall be prepared and kept readily available which includes the date of inspection, the signature of the person who performed the inspection, and an identifier for the ropes which were inspected.

* * * * *

11. The authority citation for Subpart O of Part 1910 is revised to read as follows:

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

Sections 1910.217 and 1910.218 also issued under 29 CFR Part 1911.

12. In § 1910.217, paragraphs (e)(1) (i) and (ii) are revised to read as follows:

§ 1910.217 Mechanical power presses.

* * * * *

(e) * * *

(1) * * *

(i) It shall be the responsibility of the employer to establish and follow a program of periodic and regular inspections of his power presses to ensure that all their parts, auxiliary equipment, and safeguards are in a safe operating condition and adjustment. The employer shall maintain a certification record of inspections which includes the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the power press that was inspected.

(ii) Each press shall be inspected and tested no less than weekly to determine the condition of the clutch/brake mechanism, antirepeat feature and single stroke mechanism. Necessary maintenance or repair or both shall be performed and completed before the press is operated. These requirements do not apply to those presses which comply with paragraphs (b) (13) and (14) of this section. The employer shall maintain a certification record of inspections, tests and maintenance work which includes the date of the inspection, test or maintenance; the signature of the person who performed the inspection, test, or maintenance; and the serial number or other identifier of the press that was inspected, tested or maintained.

* * * * *

13. In § 1910.218, paragraphs (a)(2) (i) and (ii) are revised to read as follows:

§ 1910.218 Forging machines.

(a) * * *

(2) * * *

(i) Establishing periodic and regular maintenance safety checks and keeping certification records of these inspections which include the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the forging machine which was inspected.

(ii) Scheduling and recording the inspection of guards and point of operation protection devices at frequent and regular intervals. Recording of inspections shall be in the form of a certification record which includes the date the inspection was performed, the signature of the person who performed the inspection and the serial number, or

other identifier, of the equipment inspected.

* * * * *

14. The authority citation for Subpart Q of Part 1910 is revised to read as follows:

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

Section 1910.252 also issued under 29 CFR Part 1911.

15. In § 1910.252, paragraph (c)(6) is revised to read as follows:

§ 1910.252 Welding, cutting and brazing.

* * * * *

(c) * * *

(6) *Maintenance.* Periodic inspection shall be made by qualified maintenance personnel, and a certification record maintained. The certification record shall include the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected. The operator shall be instructed to report any equipment defects to his supervisor and the use of the equipment shall be discontinued until safety repairs have been completed.

* * * * *

16. The authority citation for Subpart T of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Sec. 41, Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

§ 1910.440 [Amended]

17. In § 1910.440, paragraph (a)(1) is removed and reserved.

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

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

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

19. In § 1915.113, paragraph (b)(1) is revised to read as follows:

§ 1915.113 Shackles and hooks.

* * * * *

(b) * * *

(1) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employer shall maintain and keep readily available a certification record which includes the date of such tests, the signature of the person who performed the test and an identifier for the hook which was tested.

* * * * *

20. In § 1915.172, paragraph (d) is revised to read as follows:

§ 1915.172 Portable air receivers and other unfired pressure vessels.

* * * * *

(d) A certification record of such examinations and tests made in compliance with the requirements of paragraphs (a) and (b) of this section shall be maintained. The certification record shall include the date of examinations and tests, the signature of the person who performed the examinations or tests and the serial number, or other identifier, of the equipment examined and tested.

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federal register

Monday
September 29, 1986

Part IV

Department of Agriculture

48 CFR Part 401, etc.
Acquisition Regulation; Competition in Contracting and Miscellaneous Changes; Final Rule

DEPARTMENT OF AGRICULTURE

48 CFR Parts 401, 406, 413, 414, 415, 422, 433, 436

[Agriculture Acquisition Circular No. 1]

Acquisition Regulation; Competition in Contracting and Miscellaneous Changes

AGENCY: Office of Operations, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the Department of Agriculture's Acquisition Regulation (AGAR). The revisions update the AGAR as a result of the Competition in Contracting Act of 1984 (CICA), Pub. L. 98–369. There are other changes intended to clarify existing subject matter and to add new coverage requested by USDA contracting activities. A detailed listing of the changes is provided in the "SUPPLEMENTARY INFORMATION" section.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Larry Schreier, Office of Operations, United States Department of Agriculture, Washington, DC, (202) 447–8924.

SUPPLEMENTARY INFORMATION:

I. Background

On March 24, 1986, the Department of Agriculture published a notice of proposed rulemaking in the **Federal Register** (51 FR 10034) which invited comments by May 8, 1986, on Agriculture Acquisition Circular No. 1. No public comments were received. Comments received from contracting activities within the agency were considered and adopted to the extent that they would improve the clarity of this final rule.

This rule revises the AGAR, as necessary, to implement the Federal Acquisition Regulation's (FAR) changes as a result of the Competition in Contracting Act of 1984, Pub. L. 98–369. The purpose of the Act and the FAR coverage, as implemented herein, is to increase the use of full and open competition in the acquisition of property and services. The FAR and related AGAR coverage provides for full and open competition by soliciting sealed bids or requesting competitive proposals, or use of other competitive procedures, unless a statutory exception permits other than full and open competition. There are new justification, approval, and notice requirements for contracts employing other than full and open competition.

The principal effects of this final rule are as follows:

(a) Table of contents in revised to agree with the FAR reorganization of subchapter and part title changes;

(b) Section 401.601 is amended to remove the advocate for competition responsibility from the Director, Office of Operations;

(c) Section 401.603–1 is revised to recognize the USDA contracting officer warrant system.

(d) Section 401.671 adds contract ratification procedures;

(e) Subpart 401.70 is added to recognize procurement management reviews as a necessary Departmental acquisition activity;

(f) Section 406.302–70 provides guidance to contracting activities using authority under section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318);

(g) Section 413.505–70 is revised to clarify proper use of form AD–744;

(h) Part 414 is revised to reflect title change and to remove protest procedures (procedures are moved to Part 433);

(i) Subpart 415.3 is removed since negotiating authorities are no longer used;

(j) Subpart 422.10 is removed since parent FAR coverage was previously deleted;

(k) Part 433 is revised to comport with, and implement, CICA changes, particularly to incorporate protest procedures;

(l) Section 436.3 is amended to change "formal advertising" reference to "sealed bidding."

(m) Sections 414.404–1 and 415.105 are added to authorize HCA's to determine whether invitations for bids may be cancelled, and if so whether negotiations may proceed to complete the procurement.

II. Procedural Requirements

A. Review Under Executive Order 12291

Procurement rules are normally exempt from review under Executive Order 12291, entitled "Federal Regulation," based on a determination that they generally relate only to the management of an agency function and do not have any major economic impact. The Office of Management of Budget, OMB, has decided however that agency implementations of the Competition in Contracting Act of 1984, Pub. L. 98–369, warrant review. Accordingly, this rule, although not a major rule as defined in E.O. 12291, was submitted to OMB for review in accordance with Executive Order 12291 and OMB Bulletin 85–7.

B. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

No information collection or record-keeping requirements are imposed on the public by this rule. Accordingly, no OMB clearance is required by section 350(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq., or OMB's implementing regulation at 5 CFR Part 1320.

List of Subjects in 48 CFR Parts 401, 406, 413, 414, 415, 422, 433, 436

Government procurement.

Issued in Washington, DC, September 23, 1986.

Frank Gearde, Jr.,

Director, Office of Operations.

For the reasons set out in this preamble, Chapter 4 of Title 48 of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for 48 CFR Parts 401, 406, 413, 414, 415, 422, 433 and 436 continues to read as follows:

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

PART 401—AGRICULTURE ACQUISITION REGULATION SYSTEM

401.601 [Amended]

2. Section 401.601 is amended by removing paragraph (a)(9) and redesignating paragraph (a)(10) as (a)(9); and by removing paragraph (c).

401.602–1 [Removed]

3. Section 401.602–1 is removed.

4. Section 401.603–1 is revised to read as follows:

401.603–1 General.

An HCA may delegate contracting authority to the extent authorized by the Procurement Executive in a general delegation of acquisition authority, by appointing qualified individuals as contracting officers, in accordance with the USDA Contracting Officer Warrant

System, Departmental Regulation 5001–1. Contracts may be entered into and signed only by the Agency Head, HCA's, or other duly appointed contracting officers acting within the scope of their authority.

5. Sections 401.671, 401.671–1, 401.671–2, 401.671–3, 401.671–4, and 401.671–5 are added to read as follows:

401.671 Ratification of unauthorized contract awards.

401.671–1 Definitions.

"Ratification," as used in this section, means the signed, documented action taken by an authorized official to approve and sanction a previously unauthorized commitment.

"Unauthorized commitment," as used in this section, means an agreement made by a Government representative who lacked the authority to enter into a contract on behalf of the Government.

401.671–2 Authority.

Only contracting officers acting within the scope of their authority may enter into contracts on behalf of the Government (see FAR 1.602). However, subject to the limitations in 401.671–3 below, an HCA or contracting officer having redelegable contracting authority may ratify, to the extent of their individual delegations of authority, unauthorized commitments.

401.671–3 Limitations on exercise of authority.

(a) The authority in 401.671–2 above may be exercised only if—

(1) The work under the unauthorized commitment was needed by the Government and was for the Government's benefit;

(2) The ratifying official could have granted authority to enter into the commitment at the time it was made and still has the power to do so;

(3) The resulting contract would otherwise be proper. As used herein, the phrase "otherwise proper" means that a ratification of an unauthorized commitment can be made only if there occurred no violation of any substantive legal requirement, e.g., there can be no ratification unless the use of other than full and open competition can be justified and approved; a determination made that the contractor is not debarred or otherwise ineligible for award; the organizational conflict of interest reviews and determinations, if required, are completed; and all other substantive legal requirements have been met;

(4) Supplies or services being provided are acceptable to the Government;

(5) The ratifying official determines the price to be fair and reasonable;

(6) The ratifying official recommends payment; and

(7) Funds are available and were available at the time the unauthorized commitment was made.

(b) Any unauthorized commitment that would involve claims subject to resolution under the Contract Disputes Act of 1978 shall be processed in accordance with FAR Subpart 33.2.

401.671–4 Procedures.

Whenever a ratifying official of the cognizant contracting activity learns that a person or firm has assumed work as a result of an unauthorized commitment, that official shall take the following actions:

(a) Immediately inform any person who is performing work as a result of an unauthorized commitment that the work is being performed at that person's risk;

(b) Inform the person who made the unauthorized commitment of the seriousness of the act and the possible consequences;

(c) Ensure that the individual who made the unauthorized commitment furnishes all records and documents concerning the commitment and a complete, written statement of facts, including, but not limited to: a statement as to why a contracting officer was not used; why the vendor was selected and a list of sources considered; a description of work to be performed or products to be furnished; the estimated or agreed price; whether an appropriation is available for the work; and whether performance has begun. Under exceptional circumstances, such as when the person who made the unauthorized commitment is no longer available to attest to the circumstances of the unauthorized commitment, the ratifying official may waive these requirements; and

(d) Decide whether ratification is proper and proceed as follows:

(1) If ratification is not justifiable, provide the cognizant program office, contracting office, and the unauthorized contractor with an explanation of the decision not to ratify.

(2) If ratification appears adequately justified, ratify the action and retain or assign the contract to a successor contracting officer if necessary.

(3) Maintain related approval, decisional, and background documents in the contract file for audit purposes.

(4) Notify the cognizant program supervisor or line officer about the final disposition of the case; the notification may include a recommendation that the unauthorized commitment should be further considered as a violation of the employee conduct regulations of the Department. (See 7 CFR 0.735–11).

401.671–5 Nonratifiable commitments.

Cases that are not ratifiable under this section may be subject to resolution as recommended by the General Accounting Office under its claim procedure (4 CFR Part 31), or as authorized by FAR Part 50. Legal advice should be obtained in those instances.

6. Subpart 401.70 consisting of sections 401.7001 through 401.7006 is added to read as follows:

Subpart 401.70—Procurement Management Reviews

Authority: 5 U.S.C 301 and 40 U.S.C. 486(c).

Subpart 401.70—Procurement Management Reviews

401.7001 General.

It is the policy of the Office of Operations to regularly conduct procurement management reviews (PMRs) of contract activities' procurement management and operations. This will fulfill a responsibility of the Senior Procurement Executive under Executive Order 12352 and the duties stated in 7 CFR 2.25 and 7 CFR 2.76, to oversee development of procurement systems and evaluate systems performance.

401.7002 Purpose.

Procurement management review will be conducted for the principal purpose of ensuring compliance with the FAR, AGAR, and other Federal procurement laws and regulations. Reviews will also analyze staffing, training, agency regulations, forms, organization, and overall management of the procurement function.

401.7003 Scheduling.

Reviews will normally be scheduled at least 60 days in advance. A scheduling letter, requesting some specific information from the office to be reviewed, will be sent to the HCA after preliminary discussions with the HCA's administrative services director to avoid scheduling conflicts, periods of personnel absences, etc. Review plans will be discussed, and, to the extent feasible, coordinated with the Offices of Finance and Management, Inspector General, and Advocacy and Enterprise.

401.7004 Frequency.

The Office of Operations will review at least one major procurement office within each contract activity on a 2 or 3-

year cycle. Large contracting activities with decentralized procurement will receive more frequent reviews, as time and resources permit. Occasionally, more frequent or more in-depth reviews may be necessary to analyze special problem situations. HCA's are encouraged to make their internal review schedules known to the Office of Operations-PMR Team, and may request assistance in performing their internal reviews.

401-7005 Guidelines.

Guidelines for conducting PMR's are found in the Office of Operations, Procurement Management Review Handbook.

401.7006 Reports.

Draft reports of findings, recommendations and required corrective actions will be sent to administrative services directors for review and comment on factual inaccuracies or statements unfounded in fact. Final reports will be sent to HCA's. Reports will also contain suggestions for improvements in procedure and management of the acquisition function.

Subchapter B—Competition and Acquisition Planning

7. The heading of Subchapter B is revised to read as set forth above.

PART 405—[TRANSFERRED TO SUBCHAPTER B]

8. Part 405 is transferred from Subchapter A to Subchapter B.

9. Part 406 is added to Subchapter B to read as follows:

PART 406—COMPETITION REQUIREMENTS

Subpart 406.3—Other Than Full Open Competition

406.302 Circumstances permitting other than full and open competition.
406.302-70 Otherwise authorized by law.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c); and Sec. 1470, Pub. L. 95-113, 91 Stat. 1019 (7 U.S.C. 3316)

Subpart 406.3—Other Than Full and Open Competition

406.302 Circumstances permitting other than full and open competition.

406.302-70 Otherwise authorized by law.

(a) *Authority.* Section 1472 of the National Agricultural Research, Extension,and Teaching Policy Act of 1977 (7 U.S.C. 3318) authorizes the Secretary to award contracts, without competition, to further research, extension, or teaching programs in the food and agricultural sciences.

(b) *Limitations.* The use of this authority is limited to those instances where it can be determined that contracting without full and open competition is in the best interest of the Government and necessary to the accomplishment of a research, extension, or teaching program. Therefore:

(1) Contracts under the authority of the Act shall be awarded on the basis of full and open competition; and

(2) When full and open competition is not deemed apropriate, the contracting officer shall make a written justification on a case-by-case basis in accordance with the procedures in FAR 6.303.

PART 413—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

10. Section 413.505-70 is amended by revising paragraph (b) to read as follows:

413.505-70 AD-744, Purchase Order-Invoice-Voucher

* * * * *

(b) *Restrictions on use.* Form AD-744 shall not be used unless all four conditions under FAR 13.505-3(b) are satisfied. Additionally, use is precluded for any of the following purposes:

(1) As a confirming purchase order;

(2) As an order under a Blanket Purchase Agreement;

(3) As a receipt for purchases paid in cash;

(4) As an order for acquiring goods or services from Government agencies; or

(5) As a substitute for cash purchases using imprest funds, unless funds are not available.

* * * * *

PART 414—SEALED BIDDING

11. The title of Part 414 is revised to read as set forth above.

12. Section 414.404-1 is added to read as follows:

414.404-1 Cancellation of invitations after opening.

HCA's are authorized to make the determinations under FAR 14.404-1 (c) and (e)(1).

414.407-8 [Removed]

13. Section 414.407-8 is removed.

PART 415—CONTRACTING BY NEGOTIATION

14. Section 415.103 is added to read as follows:

415.103 Converting from sealed bidding to negotiation procedures.

HCA's are authorized to make the determination to permit the use of negotiation to complete an acquisition following the cancellation of an invitation for bids. (See 414.404-1).

Subpart 415.3—[Removed]

15. Subpart 415.3 consisting of section 415.307 is removed.

PART 422—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 422.10—[Removed]

16. Subpart 422.10 consisting of 422.1003, 422-1007, and 422.1011 is removed.

17. Part 433 is revised to read as follows:

PART 433—PROTESTS, DISPUTES, AND APPEALS

Subpart 433.1—Protests

433.102 General.
433.103 Protests to the agency.
433.104 Protests to GAO.
433.105 Protests to GSBCA.

Subpart 433.2—Disputes and appeals

433.203 Applicability.
433.203-70 Agriculture Board of Contract Appeals.
433.209 Suspected fraudulent claims.
433.211 Contracting officer's decision.
433.212 Contracting officer's duties upon appeal.

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

Subpart 433.1—Protests

433.102 General.

The Director, Office of Operations, is responsible for coordinating the handling of bid protests lodged with the General Accounting Office (GAO) and the Genral Services Board of Contract Appeals (GSBCA) against contracts awarded by contracting activities. However, in order that the Department be responsive to the mandatory time frames established in the FAR, the Director, Office of Operations, has authorized each contracting activity to coordinate protests directly with the GAO and the GSBCA.

433.103 Protests to the agency.

When a protest is filed with the contracting activity, the contracting officer shall take prompt action toward resolution and notify the protester in writing of the action taken. The written final decision shall include a paragraph substantially as follows:

This decision shall be final and conclusive unless a further written notice of protest is filed with the General Accounting Office in accordance with 4 CFR Part 21 or, when applicable, with the General Services Board of Contract Appeals in accordance with 48 CFR Part 61.

The contracting officer need not notify the contractor if the protest can be promptly resolved. If the protest appears to have merit, or if the contracting officer denies the protest but has reason to believe that the protester will file a protest with the GAO or the GSBCA, the contracting officer should promptly notify the contractor in writing and consider suspending contract performance.

433.104 Protests to GAO.

(a) The Director, Office of Operations, has furnished to the GAO a list of the name, title, address and telephone number of an official in each of the contracting activities whom the GAO can contact regarding protests. Contracting activities shall promptly notify the Chief, 00, Procurement Division, of any changes to the list.

(b) Protests received after award shall be handled in accordance with the contracting activities' internal procedures.

(c) If the protest involves significant legal issues, the Office of Operations and the Office of the General Counsel will, upon request, assist contracting activities to reach a proper resolution of the protest.

(d) The HCA shall report to the GAO pursuant to FAR 33.104(f) when the contracting activity has decided not to comply with the GAO's recommendation.

433.105 Protests to GSBCA.

(a) Upon receiving notification of a protest filed with the GSBCA, the contracting officer shall promptly notify the Assistant General Counsel, Research and Operations Division, and coordinate with OGC the contracting activity's response to the protest. The OGC will provide necessary legal counsel.

(b) The HCA shall make the determination under FAR 33.105(d)(2) whether to proceed with award of a contract that has been protested to the GSBCA and is pending a final decision.

PART 436—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 436.3—Sealed Bidding

18. The title of Subpart 436.3 is revised to read as set forth above.

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September 29, 1986

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 200, 215, 235, 236, 247, 812, 880, 881, 882, 883, 884, 886, and 912

Restriction on Use of Assisted Housing; Delay of Effective Date and Related Technical Amendments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 215, 235, 236, 247, 812, 880, 881, 882, 883, 884, 886, and 912

[Docket No. R-86-974; FR 1588]

Restriction on Use of Assisted Housing; Delay of Effective Date and Related Technical Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; delay of effective date and related technical amendmets.

SUMMARY: This document postpones, until December 31, 1986, the previously announced effective date for a final rule published on April 1, 1986 entitled "Restriction on Use of Assisted Housing" (51 FR 11198), and revised definitions in the rule to conform them to the postponed effective date.

EFFECTIVE DATE: The effective date of the rule published on April 1, 1986 is delayed until December 31, 1986. The effective date of the amendments made by this document is also December 31, 1986.

FOR FURTHER INFORMATION CONTACT: *With reference to today's publication:* Grady J. Norris, Assistant General Counsel for Regulations, Office of General Counsel, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 755-7055.

For Parts 200, 215, 236, 247, 812, 880, 881, 883, 884, and 886: James Tahash, Program Planing Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 426-3944.

For Part 235: John Coonts, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 755-6720.

For Part 882: Madeline Hastings, room 6124, Existing Housing Division, (202) 755-6887, or Gerald Benoit, Room 6128, Voucher Housing Division, (202) 755-6477 (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On April 1, 1986, the Department published a final rule (51 FR 11198) to implement section 214 of the Housing and Community Development Act of 1980, as amended by section 329(a) of the Housing and Community Development Amendments of 1981. Section 214 prohibits the Secretary from making financial assistance available under the United States Housing Act of 1937 (Public Housing and section 8), sections 235 and 236 of the National Housing Act, or section 101 of the H ousing and Urban Development Act of 1965 (rent supplement), for the benefit of any alien who is not a lawful resident of the United States. Corrections and technical amendments to the April 1, 1986 alien rule were published on April 25, 1986 (51 FR 15611), July 16, 1986 (51 FR 25667) and July 28, 1986 (51 FR 26876).

The originally announced effective date of the April 1, 1986 alien rule was July 30, 1986, in order to provide a lengthy period of transition. The reasons for the July 30, 1986 effective date, and for other transition-related procedures appearing in the text of the rule and which are keyed to that effective date, are discussed fully in the published final rule. See 51 FR 11198, at 11210-11213.

On July 28, 1986 the effective date of the alien rule was delayed to September 30, 1986 (51 FR 26876) in response to a request by several Members of Congress in view of the possible enactment of pending legislation, containing amendments to section 214, during the current Congressional session.

In response to a second Congressional request, this document further postpones the effective date of the alien rule until December 31, 1986. With this additional time, HUD will be able to take any appropriate action in response to legislation which might be enacted in the present session of the Congress, and to address concerns raised in pending litigation on the alien rule.

This document's postponement of the July 30, 1986 effective date to December 31, 1986 also requires technical amendments to the final rule to change definitions of the terms "Current Participant" and "Initial Implementation Period" as these terms appear in Parts 200, 812, and 912 of the rule. These definitions are keyed to the effective date, and the technical amendments make no change in the definitions other than to clarify the time periods to which they refer. (Because some of these definitions were previously amended, the full text of each of these definitions, as amended, is set out in this document.)

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—housing and community development, Mortgage insurance, Organizations and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards.

24 CFR Part 812

Low and moderate income housing, Rent subsidies.

24 CFR Part 912

Low and moderate income housing.

Accordingly, 24 CFR Parts 200, 812 and 912 are amended as follows:

PART 200—INTRODUCTION

1.The authority citation for Part 200 continues to read as follows:

Authority: Secs. 2, 211, and 807, National Housing Act (12 U.S.C. 1703, 1715b, and 1748f; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Subpart G is also issued under sec. 214, Housing and Community Development Act of 1980, as amended by sec. 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a).

§ 200.181 [Amended]

2. In § 200.181, the definitions of "Current Participant" and Initial Implementation Period" are revised to read as follows:

Current Participant. A tenant for which an assisted lease was entered into before December 31, 1986.

* * * * *

Initial Implementation Period. The 90-day period beginning on December 31, 1986 and ending on March 30, 1987.

* * * * *

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

3. The authority citation for Part 812 continues to read as follows:

Authority: Sec. 3, U.S. Housing Act of 1937 (42 U.S.C. 1437a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)). Part 812 is also issued under sec. 214, Housing and Community Development Act of 1980, as amended by section 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a.)

§ 812.2 [Amended]

4. In § 812.2, the definitions of "Current Participant" and "Initial Implementation Period" are revised to read as follows:

Current Participant—(a) For a participant under the Section 8 Housing Certificate Program or Housing Voucher Program. A Family for which an assistance contract was entered into before December 31, 1986.

(b) *For all other Section 8 assistance under this Part.* A Family for which an assisted lease was entered into before December 31, 1986.

* * * * *

Initial Implementation Period. The 90-day period beginning on December 31, 1986 and ending on March 30, 1987.

* * * * *

PART 912—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

5. The authority citation for Part 912 continues to read as follows:

Authority: Sec. 3, U.S. Housing Act of 1937 (12 U.S.C. 1438a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Part 912 is also issued under sec. 214, Housing and Community Development Act of 1980, as amended by sec. 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a).

§ 912.2 [Amended]

6. In § 912.2, the definitions of "Current Participant" and "Initial Implementation Period" are revised to read as follows:

Current Participant. A Family for which an assisted lease was entered into before December 31, 1986.

* * * * *

Initial Implementation Period. The 90-day period beginning on December 31, 1986 and ending on March 30, 1987.

* * * * *

§ 912.5 [Amended]

7. In § 912.5(a)(6), "September 30, 1986" is removed and "December 31, 1986" is substituted.

Dated: September 25, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 86-22123 Filed 9-26-86; 10:34 am]

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.