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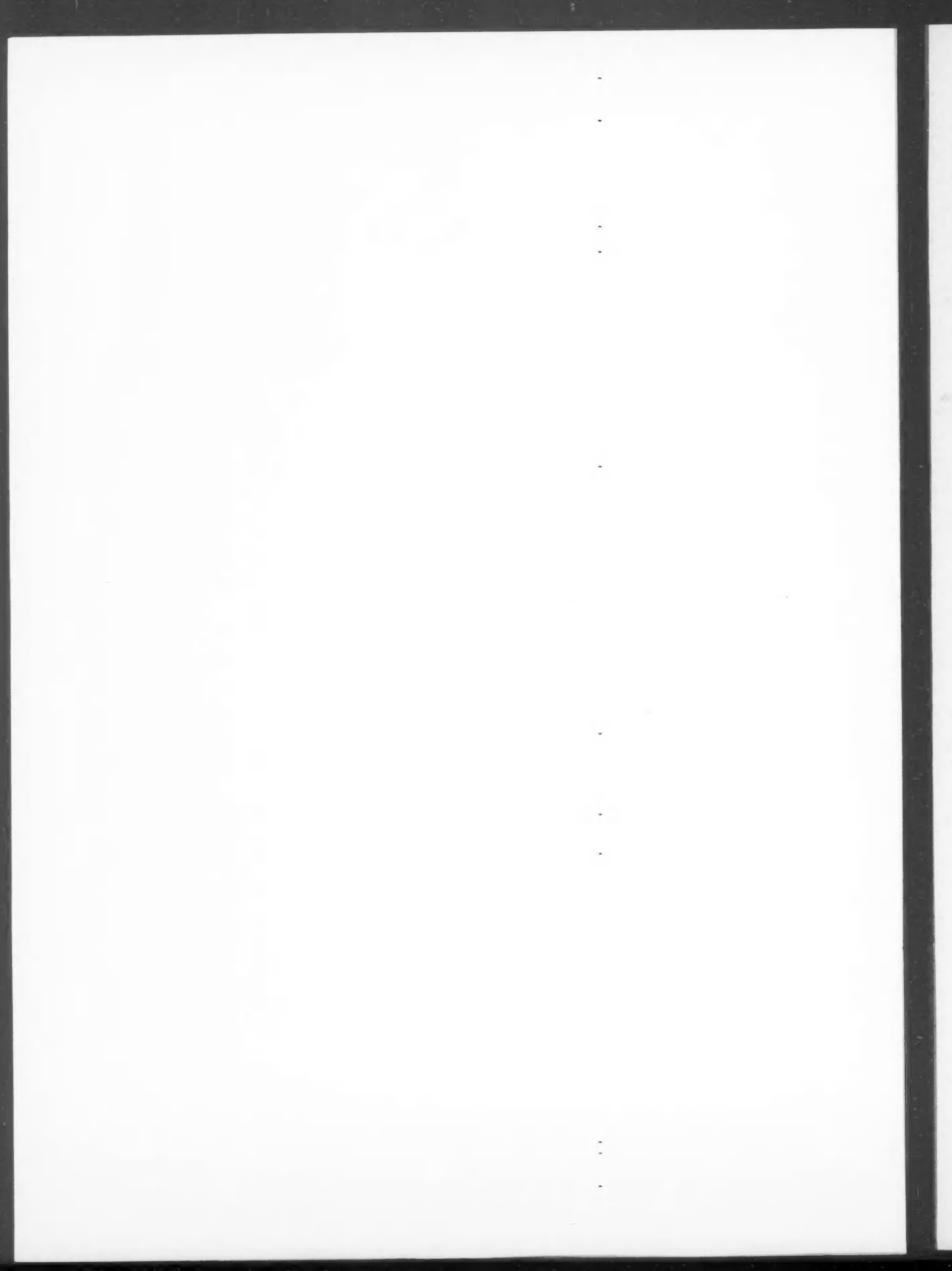

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Pages 29497-29654

federal register

Monday
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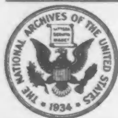

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WASHINGTON, DC

WHEN: September 29, at 9 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Janice Booker, 202-523-5239

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Rules and Regulations

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 304

Freedom of Information Act Fee Schedule Revision

AGENCY: Administrative Conference of the United States.

ACTION: Final rule.

SUMMARY: This rule revises the fee schedule used by the Administrative Conference of the United States to process requests made under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The rule amends 1 CFR Part 304 to bring the Conference's regulations into conformance with the Freedom of Information Reform Act of 1986, Pub. L. 99–570, sections 1801 through 1804, and the Office of Management and Budget (OMB) fee schedule and guidelines published on March 27, 1987 (FR 10012).

EFFECTIVE DATE: September 11, 1987.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC, telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: This rule implements provisions of the Freedom of Information Reform Act of 1986, Pub. L. 99–570, sections 1801 through 1804, which amended the Freedom of Information Act's fee provisions. The FOIA Reform Act requires each Federal agency to promulgate fee regulations conforming to guidelines issued by the Office of Management and Budget, 5 U.S.C. 552(a)(4)(A)(i). OMB published a final fee schedule and guidelines on March 27, 1987 (FR 10012).

Accordingly, the Administrative Conference published an interim rule, and solicited public comment thereon, on June 16, 1987 (*see* FR 22753). The Conference received three comments in response to its request for comments. Following is a section-by-section summary and response to the comments:

Section-by-Section Analysis

Section 304.6(a) Definitions. One comment criticized the interim rule's definition of "commercial use request", which was taken directly from OMB's guidelines. The comment argued that Congress intended that requests from public interest groups, labor unions, libraries, and the news media should not be treated as commercial use requests subject to review costs. While agreeing that requests from such entities normally will not be commercial use requests, the Conference believes OMB is correct in focusing on the use to be made of the requested information rather than on the identity of the requester. Therefore, the Conference does not adopt a presumption that particular classes of requesters are not within the definition.

One commenter criticized the interim rule's definition of "educational institution," which again is taken from OMB's guidelines. OMB's definition was adapted from the Department of Education definition in 20 U.S.C. 1681(c). The commenter recommended that the term "educational institution" include all entities recognized by the Internal Revenue Service as "organized and operated exclusively for * * * educational purposes." 26 U.S.C. 501(c)(3). The Conference agrees with OMB that the Tax Code and IRS interpretations are too general to provide useful guidance for imposition of fees under the Freedom of Information Act. The Conference believes that OMB's definition is sufficiently broad to permit it to assess fees consistent with the statutory scheme. In addition, it should be noted that requesters not meeting the definition of "educational institution" still may request waiver of fees, *see* § 304.6(f). Therefore, the Conference makes no change to the definition of "educational institution."

All three comments addressed the interim rule's definition of "representative of the news media." The commenters' primary concern is that the definition invites agencies to judge the newsworthiness of requested information when charging fees. While appreciating their concern, the commenters' recommendations would read the word "news" out of the Act. The Conference agrees with OMB's analysis (*see* FR 10014–10015) and, therefore, makes no change in the definition.

Section 304.6(f) Waiver or reduction of fees. One commenter criticized the interim rule for neglecting "to mention suitable criteria to determine whether the fee waiver standard [in the Act] has been met." The commenter suggested criteria based on statements made by congressional sponsors of the FOIA Reform Act. The Conference has decided to not adopt this suggestion, preferring instead to apply the statutory standard on a case-by-case basis when requests for waiver or reduction are made.

Section 304.6(h) Advance payment of fees. One commenter stated that the Conference's rule should reflect the Reform Act's presumption against advance payments, except in specified circumstances. The Conference agrees with this suggestion and has modified its rule accordingly.

Section 304.6(i)(1) Charges for unsuccessful search. One commenter recommended that this provision expressly refer to an opportunity for the requester to confer with agency personnel to discuss reformulating the request to meet the requester's needs at lower cost. The Conference agrees with this suggestion and has modified its rule accordingly

Section 304.6(i)(2) Aggregating requests to avoid fees. One commenter criticized the interim rule for failing to include a presumption *against* agency aggregation of requests when requests are made *more* than thirty days apart, as "put forth by the OMB in its guidelines." However, the Conference understands OMB's guidelines to suggest that agencies might reasonably adopt a presumption that requests filed within thirty days of each other are part of a single request, *see* OMB Uniform Freedom of Information Act Fee Schedule and Guidelines, FR 10012 at 10016. The Conference has decided to not adopt any presumption to apply in this situation and, therefore, makes no change in this provision

The same commenter urged the Conference to adopt the OMB guidelines' prohibition on aggregation of multiple requests on unrelated subjects from the same requester. The Conference adopts this suggestion.

List of Subjects in 1 CFR Part 304

Freedom of information, Privacy.

Title 1, Part 304 of the CFR is amended as follows:

PART 304—[AMENDED]

The interim rule published in the **Federal Register** of Tuesday, June 16, 1987 at page 22753 is adopted as final with the following changes:

1. The authority citation for Subpart A of 1 CFR Part 304 continues to read, as follows:

Authority: 5 U.S.C. 552, as amended; 5 U.S.C. 571–576.

2. Section 304.3 is amended by revising paragraph (d), as follows:

§ 304.3 Requests for records.

* * * * *

(d) The requester will be notified promptly of the determination made pursuant to paragraph (c) of this section. If the determination is to release the requested record, such record shall promptly be made available. If the determination is not to release the record, the person making the request shall, at the same time he is notified of such determination, be notified of:

(1) The reason for the determination;

(2) The name and title or position of each person responsible for the denial of the request; and

(3) His right to appeal the determination in writing to the Chairman of the Administrative Conference, who shall render a decision on an appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. The requester shall be notified promptly of the Chairman's decision and, if the appeal is denied, the reasons therefor and the requester's right to seek judicial review of such determination pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. 552(a)(4).

3. Section 304.6 is amended by adding introductory text to paragraph (h), by adding a sentence to the end of paragraph (i)(1), and by adding a sentence to the end of paragraph (i)(2), as follows:

§ 304.6 Schedule of fees and methods of payment.

* * * * *

(h) *Advance payment of fees.* The Conference will not require a requester to make an advance payment *i.e.*, payment before work is commenced or continued on a request, except in the following situations.

(i) * * *

(1) * * * However, as provided in paragraph (g)(4) of this section, a requester will be given the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(2) * * * However, the Conference will not aggregate multiple requests on unrelated subjects from one requester.

Dated: August 5, 1987.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87–17913 Filed 8–7–87; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 99

[Docket No. 86–073]

Importation of Elephants, Hippopotami, Rhinoceroses, and Tapirs

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes regulations on importing elephants, hippopotami, rhinoceroses, and tapirs into the United States. These animals present a significant risk of carrying ectoparasites (such as ticks, mites, and lice) that can spread communicable livestock diseases. The regulations are necessary to prevent the ectoparasites from coming into contact with and affecting livestock in the United States.

EFFECTIVE DATE: September 9, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8695.

SUPPLEMENTARY INFORMATION:

Background

We proposed, in a document published in the **Federal Register** on April 2, 1986 (51 FR 11316–11321), to amend 9 CFR, Chapter I, Subchapter D, by establishing regulations on the importation of elephants, hippopotami, rhinoceroses, and tapirs. The regulations are necessary to prevent ectoparasites carried by these animals from being introduced into the United States and transmitting diseases to livestock in the United States. The regulations were proposed as a new Part 93.

The document of April 2, 1986, invited the submission of written comments on the proposed rule on or before June 2, 1986. We received 14 comments from private individuals, wild animal brokers and importers, and representatives of an association of zoological parks and aquariums, a circus, a veterinary medical association, and a livestock conservation institute. Two commenters supported the proposed rule as written; 12 objected to various provisions. All the objections are discussed below.

Except as noted below, the provisions of the proposed rule have been adopted for the reasons given in the proposal and in this document.

Comments

We received four comments concerning the requirements in proposed § 93.3(a) that elephants, hippopotami, rhinoceroses, and tapirs must be imported into the United States within 14 days after the proposed date of arrival stated in the import permit. The commenters asserted that 14 days would not allow for delays commonly experienced in shipping large animals. Commenters suggested: (1) 30 days; (2) 45 days; (3) 30–60 days, with notification of the port veterinarian not more than 48 hours before the animals arrive; and (4) 30 days, with notification of port veterinarian not more than 72 hours before the animals arrive. To give importers more flexibility, we have changed § 93.3 in the final rule to require that elephants, hippopotami, rhinoceroses, and tapirs be imported into the united States not more than 30 days after the proposed date of arrival stated in the import permit, with notification of the port veterinarian at least 72 hours before the animals arrive. We believe this change will allow for reasonable delays during shipment and at the same time ensure that inspectors and facilities are available for the animals when they arrive.

We received one comment concerning the requirements in proposed §§ 93.3 and 93.4 that animals imported into the United States be accompanied by an import permit and a health certificate. The commenter asserted that two pieces of paper should not be required and suggested a dual purpose import permit/health certificate form such as that used in importing birds. We have not changed the proposed rule based on this comment. The form used in importing birds is pertinent only to birds. Most other animals imported under 9 CFR, Chapter I, Subchapter D, are brought into the United States accompanied by a health certificate from the country of origin and an import permit issued by Veterinary Services. If we adopted the commenter's suggestion, we would have to develop a single form for use with elephants, hippopotami, rhinoceroses, and tapirs, and, because health certification requirements for these animals are not the same as for other

animals, the new form could be used only for elephants, hippopotami, rhinoceroses, and tapirs. Since few importers handle only elephants, hippopotami, rhinoceroses, and tapirs, a specialized form for these animals would present importers with an added burden rather than a reduced burden.

We received one comment concerning the requirement in proposed § 93.4(a)(2) that elephants, hippopotami, rhinoceroses, and tapirs be treated for ectoparasites in the country of origin within 3 to 14 days of being loaded for transport to the United States. The commenter asserted that the animals should be treated within 48 hours of loading because a 3- to 14-day interval would allow time for the animals to become reinfested in the country of origin. We believe there is a possibility of the animals becoming reinfested or of some ectoparasite remaining no matter when treatment is performed in the country of origin. Because of this possibility, we also require the animals to be treated after they arrive in the United States. If the two treatments are too close together, however, the pesticide may be toxic to the animals. We believe that treating animals at least 3 days but not more than 14 days before loading them for shipment will destroy most ectoparasites on the animals without danger of overexposing the animals to pesticides. Therefore, we have made no change to the timeframe for treating animals for ectoparasites in the country of origin. However, to reduce the chances of reinfestation in the country of origin, § 93.4(a)(3) in the final rule requires that animals, after being treated for ectoparasites in accordance with § 93.4(a)(2), must be allowed to have physical contact with or share a pen or bedding materials with any elephant, hippopotamus, rhinoceros, or tapir not in the same shipment to the United States.

We received one comment concerning the requirement in proposed § 93.4(a)(2) that elephants, hippopotami, rhinoceroses, and tapirs be treated for ectoparasites in the country of origin by being thoroughly wetted with a pesticide applied either with a spray-dip machine or with a sprayer with a hand-held nozzle. The commenter asked who is authorized to spray the animals. We do not specify any particular person because it doesn't matter who sprays the animals as long as the treatment is supervised by the individual who signs the health certificate. This has been clarified in the final rule.

We received two comments concerning the methods in proposed §§ 93.4(a)(2) and 93.6(b) for applying pesticides to elephants, hippopotami, rhinoceroses, and tapirs. As mentioned above, proposed § 93.4(a)(2) requires the animals to be treated in the country of origin by being thoroughly wetted with a pesticide applied "either with a spray-dip machine or with a sprayer with a hand-held nozzle." Proposed § 93.6(b) requires the animals to be treated after arrival in the United States (either at the port of entry or at a facility provided by the importer) with a "permitted dip." One commenter asserted that animals should be dipped and not sprayed because spray treatments might miss some ectoparasites. The second commenter asserted that animals should be sprayed and not dipped because dipping large and potentially aggressive animals would be dangerous to the animals and to personnel assisting. We have made no change to the proposed rule based on these comments. Our experience with both spray and dip treatments indicates that either treatment, when combined with inspection, is effective in destroying ectoparasites Section 93.4(a)(1) requires the individual who signs the health certificate in the country of origin to certify that he or she inspected the animal and found the animal free of ectoparasites no more than 72 hours before the animal was loaded for shipment to the United States. Section 93.6(b) requires treatment either at the port of entry or at a facility provided by the importer "for as many times as necessary until the inspector finds no ectoparasites." We believe the decision to dip or spray an animal should rest with the person performing the treatment, based on available facilities and the particular animal involved, among other things. We intended in the proposal to permit either method of treatment. Our intention may not have been clear, however, from the term "permitted dip" in proposed § 93.6(b). In the final rule, therefore, we have modified proposed § 93.6(b) to clarify that treatment may be by either dipping or spraying.

We have also made one minor change to proposed § 93.4(a)(2) to allow treatment in a "dip vat" as well as by sprayer or spray-dip machine. Dipping animals in a vat is an acceptable and common method of applying pesticides to large animals. We inadvertently omitted the term "dip vat" from the proposal.

We received three comments concerning the requirement in proposed § 93.4(a)(3) that the name and concentration of the pesticide to be used to treat animals for ectoparasites in the country of origin must be listed on the application for an import permit and must have been approved by the Deputy Administrator. The commenters asserted that if only certain pesticides and concentrations will be acceptable to the Deputy Administrator, a specific list of approved pesticides and concentrations should be published. It is not our intention to specify which pesticides and concentrations may be used, since the choice in a particular case would depend on many variables. Therefore, we have amended the proposed rule to delete the requirement that the type and concentration of the pesticide to be used in the country of origin must have been approved by the Deputy Administrator. However, as proposed, the final rule does require that the pesticide and concentration used be adequate to kill the types of ectoparasites likely to infest the animal to be imported and that the name and concentration of the pesticide to be used in the country of origin be listed on the import permit. We need this information to determine whether the pesticides and concentrations to be used are adequate to destroy the ectoparasites most likely to be on the animals. As a service to importers, § 93.4(a)(4) in the final rule states that a list of recommended pesticides and concentrations may be obtained from Veterinary Services.

We received one comment concerning the document required by proposed § 93.5 for declaration upon arrival. The commenter asserted that VS Form 17-29 is sufficient for this purpose and that no new form is needed. The document referred to in proposed § 93.5 is VS Form 17-29. This has been clarified in the final rule.

We received one comment concerning proposed § 93.6(a), which restricts the ports at which elephants, hippopotami, rhinoceroses, and tapirs may be imported into the United States. Proposed § 93.6(a) provides that these animals may be imported at: (1) A port of entry determined by the Deputy Administrator to have adequate facilities for inspection, treatment, and incineration under § 93.6 and to have inspectors available to perform the necessary services; or (2) at a port of entry determined by the Deputy Administrator to have inspectors available to perform the services required under § 93.6 if the animals will be inspected and treated at a facility provided by the importer and approved for this purpose by the Deputy Administrator. The commenter asked whether a list of approved ports would be published and suggested that animals be allowed to enter at other ports on a case-by-case basis. Four ports now have

adequate facilities for inspection, treatment, and incineration under § 93.6 and have inspectors available to perform the necessary services. They are the ports listed in 9 CFR 92.3(a): Los Angeles, California; Miami, Florida; Honolulu, Hawaii; and Newburgh, New York. The intent of the proposal was to allow animals to enter at these ports or, on a case-by-case basis, at other ports if the Deputy Administrator determined that an inspector could be made available at the port to perform the services required under § 93.6 if the animals would be inspected and treated at a facility provided by the importer and approved for this purpose by the Deputy Administrator. We have revised § 93.6(a) in the final rule to clarify that elephants, hippopotami, rhinoceroses, and tapirs imported into the United States may enter at Los Angeles, California; Miami, Florida; Honolulu, Hawaii; and Newburgh, New York; or, a case-by-case basis, at another port under the conditions described above.

We received one comment suggesting that zoos be approved as facilities for inspection and treatment of imported elephants, hippopotami, rhinoceroses, and tapirs. We have made no change to the proposed rule based on this comment. Under proposed § 93.6(a)(2), individual zoos may be approved as facilities for inspection and treatment of these animals. We cannot give blanket approval to all zoos, however, since individual zoos may or may not have adequate facilities for inspection and treatment required by § 93.6.

We received one comment concerning the requirement in proposed § 93.6(b)(2)(i) that animals be placed on a "concrete or other nonporous surface" for inspection and treatment. The commenter suggested that the surface should be "well-sealed concrete or other nonporous material." We have made no change to the proposed rule based on this comment because "well-sealed concrete" could be slippery, creating a hazard for both animals and people. A surface of unsealed concrete could be adequately cleaned and disinfected.

We received one comment concerning proposed §§ 93.6(b)(3) and 93.6(b)(4), which require incineration or disinfection of shipping crates and incineration of hay, straw, feed, bedding, and similar material placed with an animal before its final treatment for ectoparasites. Apparently thinking these requirements would apply only at a port of entry, the commenter asserted that the final rule should address disposal of crates, bedding, etc., at facilities provided by an importer. We intended the requirements in proposed § 93.6(b)(3) and (b)(4) to apply both at ports of entry and at facilities provided by an importer and have changed the format of proposed § 93.6 to clarify this.

We received one comment concerning the removal of waste materials from shipping crates at ports of entry. Proposed § 93.2(b)(5)(ii) states that at the port of entry, "as much hay, straw, feed, bedding, and other similar material as can feasibly be removed from the shipping crate shall be removed and incinerated." The commenter asserted that removing soiled bedding and other waste materials from shipping crates would be extremely risky if the animal remains in the shipping crate, and that uncrating and recrating the animal to allow cleaning also would be dangerous. We have made no change to the proposed rule based on this comment. Proposed § 93.6(b)(5)(ii) stipulates removal and incineration of as much hay, straw, feed, bedding, and other material "as can feasibly be removed." This requirement allows a judgment to be made in each case as to how much, if any, waste material can be safely removed from a shipping crate at a port of entry.

We received one comment asserting that sealing of crates at a port of entry, as required by proposed § 93.6(b)(5)(iii), could present problems if animals need food or water before reaching final destination. We have made no change to the proposed rule based on this comment. Proposed § 93.6(b)(5)(iii) requires sealing of shipping crates with an official seal of the United States Department of Agriculture. This seal is a serially numbered lock used to ensure that animals are not removed from the crates before reaching their final destination. Locking a shipping crate with this seal does not prevent food and water from being placed inside the crate.

We received one comment concerning the requirement in proposed § 93.6 that waste materials removed from shipping crates be incincerated. The commenter stated that current practice at one port is to deposit waste from shipping containers in dumpsters use exclusively for material prohibited from entering the United States. The commenter suggested that this practice be permitted for waste from crates used to ship elephants, hippopotami, rhinoceroses, and tapirs. Hay, straw, feed, bedding, and other materials removed from crates used to ship elephants, hippopotami, rhinoceroses, and tapirs are likely to carry disease-carrying ectoparasites and must be incinerated to ensure that the ectoparasites are destroyed. If waste were placed loose in dumpsters, or any other unsealed container, even if the waste were later incinerated, there would be a risk of ectoparasites escaping. The final rule, therefore, requires all waste removed from a shipping crate or vehicle in accordance with § 93.6 to be sealed in plastic bags and incinerated under the supervision of an inspector. Waste sealed in plastic bags could be placed in a dumpster if the waste is incinerated under the supervision of an inspector.

We received several comments concerning the requirements in proposed § 93.6 for inspecting and treating elephants, hippopotami, rhinoceroses, and tapirs for ectoparasites upon arrival in the United States.

Six commenters asserted that inspection and treatment should be accomplished at final destination in the United States rather than at a port of entry. They also asserted that any requirement to remove animals from crates at a port of entry should be deleted because uncrating and recrating animals could be very dangerous. We have made no change to the proposed rule based on these comments. Proposed § 93.(b)(2) allows animals to be inspected and treated at either a port of entry or a facility provided by the importer. If an animal is to be inspected and treated at a facility provided by the importer, uncrating at the port of entry would not be necessary.

One commenter asserted that a licensed veterinarian, rather than an inspector, should be responsible for inspecting animals and supervising the treatment of anmimals, incineration of waste, and handling of shipping crates at final destination. The commenter suggested that the licensed veterinarian could then report to an inspector that the requirements of this part had been met. Although a licensed veterinarian could perform these tasks, medical expertise is not required, and we believe it would be more efficient for an inspector to do the work, since an inspector would have to be present anyway to remove United States Department of Agriculture seals from shipping crates. Furthermore, because it would be the inspector's responsibility to ensure that the animals are free from ectoparasites and that all waste and crates are properly handled, we believe the inspector should personally perform or supervise the work. To clarify the inspector's role, we have added the phrase, "under the supervision of an inspector," to relevant paragraphs in § 93.6 in the final rule.

One commenter asserted that, after being unloaded at a facility provided by an importer, animals should be allowed

time to recover before being subjected to inspection and treatment. The commenter suggested that the animals be isolated during this time in a facility with an impervious floor and where measures could be taken to contain and destroy any ectoparasites which might drop off the animals. Allowing animals time to recover between unloading and inspection and treatment would not seem to present a disease risk if the animals are isolated as suggested. Therefore, we have added a provision to § 93.6 in the final rule to allow up to 24 hours between unloading and inspection of animals at a port of entry or facility provided by the importer. Twenty-four hours would give the animals adequate time to rest and would allow inspection and treatment to be performed during normal working hours if the animals arrive at night. If inspection and treatment are not performed upon unloading, the animal must be isolated from all other animals, except those in the same shipment, and kept in a facility with a nonporous floor and where any ectoparasites that may drop off the animal can be contained and destroyed.

One commenter pointed out that elephants and other large animals may be shipped uncrated in the holds of ships of aircraft, and suggested that holds of ships and aircraft be included in a definition of shipping crate. We agree that the rule needs to address the shipping of animals in cargo holds, and therefore we have changed § 93.6 to require cleaning and disinfecting of any means of conveyance used to transport any such animals which are not in a shipping crate.

One commenter asserted that the following animals should be exempt from the regulations in proposed Part 93: (1) Tapirs; (2) animals imported to zoos accredited by the American Association of Zoological Parks and Aquariums (AAZPA); and (e) animals imported from Canada. We do not agree that tapirs should be exempt from the regulations. Tapirs, as well as elephants, hippopotami, and rhinoceroses, present a significant risk of bringing into the United States ectoparasites that can transmit livestock diseases. Neither do we agree that animals imported to AAZPA zoos should be exempt from the regulations. Animals imported to AAZPA zoos are not bound to remain in the zoos and could, if moved to rangeland, come into contact with domestic livestock, However, we have added provisions to § 93.8 of the final rule to exempt elephants, hippopotami, rhinoceroses, and tapirs imported into the United States from Canada under the following circumstances; (1) The elephants, hippopotami, rhinoceroses, or tapirs were not imported into Canada during the year preceding their importation into the United States; and (2) The elephants, hippopotami, rhinoceroses, or tapirs did not, during the year preceding their importation into the United States, have any physical contact with or share a pen or bedding materials with elephants, hippopotami, rhinoceroses, or tapirs that were imported into Canada during that year. Under these circumstances, elephants, hippopotami, rhinoceroses, or tapirs would not carry ectoparasites that could transmit diseases such as heartwater or tick typhus. These ectoparasites are not native to Canada, and Canada treats all elephants, hippopotami, rhinoceroses, or tapirs it imports for ectoparasites. Furthermore, any ectoparasites that might be missed by the treatment could not survive the cold temperatures of a Canadian winter, and elephants, hippopotami, rhinoceroses, and tapirs held in captivity in Canada are not confined in winter to heated buildings. Consequently, elephants, hippopotami, rhinoceroses, and tapirs imported into Canada would not present a disease risk because of ectoparasites after 1 year in Canada.

One commenter asserted that the regulations in proposed Part 93 should not apply to animals exported from the United States by a licensed U.S. exhibitor and then imported back into the United states by the exhibitor, especially if the animals have been exhibited only in Canada. A provision exempting elephants, hippopotami, rhinoceroses, and tapirs from the regulations in this part if they were exported from the United States to Canada and then imported back into the United States accompanied by a United States health certificate has been added to § 93.8 in the final rule. The United States health certificate is required to ensure that the animal which was exported from the United States to Canada is the animal which is returned to the United States.

One commenter asserted that the regulations in proposed Part 93 should not apply to animals that have been held in captivity until imported into the United States. Except as noted above for animals from Canada, we have made no change to the proposed rule based on this comment. Animals held in captivity in countries other than Canada may carry ectoparasites that could transmit diseases to livestock in the United States. However, under § 93.8. "Other importations," exemptions may be made on a case-by-case basis when the Deputy Administrator determines that the animals would not present a risk of carrying ectoparasites into the United States.

One commenter suggested adding to the proposed rule requirements to quarantine, test, and treat elephants, hippopotami, rhinoceroses, and tapirs for internal parasites. While we agree that testing and treating for internal parasites would be desirable, no practical way now exists to ensure the animals are free from internal parasites after treatment. If practical methods of testing animals for internal parasites are developed, we will consider incorporating this suggestion into the regulations.

Finally, one commenter suggested that user fees be collected to cover the cost of inspection and treatment required by proposed § 93.6. Because we have no specific authority at this time to collect user fees for this purpose, we have made no change to the proposed rule based on this comment. However, we are reviewing the situation and may consider charging for inspection and treatment of imported elephants, hippopotami, rhinoceroses, and tapirs in the future if we receive authority to do so.

Miscellaneous

We have also made several nonsubstantive editorial changes.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, we have determined that this rule would not have a significant impact on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Based on statistics concerning past importations of elephants, hippopotami, rhinoceroses, and tapirs, it is anticipated that fewer than 100 of these animals will be imported annually into the United States. Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catelog of Federal Domestic Assistance under No. 10.025 and is subjet to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

Paperwork Reduction Act

Information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) under OMB control number 0759-0040.

List of Subjects

9 CFR Part 93

Animal diseases, Ectoparasites, Elephants, Hippopotami, Imports, Livestock and livestock products, Rhinoceroses, Tapirs, Transportation, Wildlife.

9 CFR Part 99

Administrative practice and procedure.

Accordingly, we are amending 9 CFR, Chapter I, Subchapter D as follows:

PART 93—[REDESIGNATED AS PART 99]

§ 99.10 [Amended]

1. Part 93 is redesignated as Part 99 and § 99.10 is amended by changing the reference "93.1"to" 99.1."

2. A new Part 93 is added to read as follows:

PART 93—IMPORTATION OF ELEPHANTS, HIPPOPOTAMI, RHINOCEROSES, AND TAPIRS

Sec.
93.1 Definitions.
93.2 Prohibitions.
93.3 Import permit.
93.4 Health certificate.
93.5 Declaration upon arrival.
93.6 Ports of entry, inspection, and treatment.
93.7 Animals refused entry.
93.8 Other importations.

Authority: 21 U.S.C. 111, 134a, 134b, 134c, 134d, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 93.1 Definitions.

The following terms, when used in this part, shall be construed as defined. Those terms used in the singular form in this part shall be construed as the plural form and vice versa, as the case may demand.

Accredited veterinarian. A veterinarian approved by the Deputy Administrator in accordance with Part 161 of this chapter to perform functions specified in Parts 1, 2, 3, and 11 of this chapter, and Subchapters B, C, and D of this chapter; and to perform functions required by cooperative State-Federal disease control and eradication programs.

Deputy Administrator. The Deputy Administrator, Veterinary Services, or any official in Veterinary Services to whom authority has been delegated or may hereafter be delegated to act in the Deputy Administrator's stead.

Enter (entered, entry) into the United States. To introduce into the commerce of the United States after release from government detention.

Import (imported, importation) into the United States. To bring into the territorial limits of the United States.

Incinerate (incinerated). To reduce to ash by burning.

Inspector. An employee of Veterinary Services who is authorized to perform the function involved.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other legal entity.

United States. All of the several States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

United States health certificate. An official document issued by a Veterinary Services representative or an accredited veterinarian at the point of origin of a movement of animals. It must show the identification tag, tattoo, or registration number of each animal to be moved; the age and sex of each animal to be moved; the number of animals covered by the document; the points of origin and destination; the consignor; and the consignee.

Veterinary Services. The Veterinary Services unit of the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Veterinary Services representative. An individual employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, and authorized to perform the function involved.

§ 93.2 Prohibitions.

Elephants, hippopotami, rhinoceroses, or tapirs shall not be imported or entered into the United States unless in accordance with this part.

§ 93.3 Import permit.

(a) An elephant, hippopotamus, rhinoceros, or tapir shall not be imported into the United States unless accompanied by an import permit issued by Veterinary Services and unless imported into the United States within 30 days after the proposed date of arrival stated in the import permit. The port veterinarian must be notified of the date of arrival at least 72 hours before the animal arrives in the United States.

(b) An application for an import permit must be submitted to the Import-Export Operations Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. Application forms for import permits may be obtained from this staff.

(c) The completed application shall include the following information:

(1) The name and address of the person intending to export an elephant, hippopotamus, rhinoceros, or tapir to the United States;

(2) The name and address of the person intending to import an elephant, hippopotamus, rhinoceros, or tapir into the United States;

(3) The species, breed, and number of elephants, hippopotami, rhinoceroses, or tapirs to be imported;

(4) The purpose of the importation;

(5) The port of embarkation;

(6) The name and concentration of the pesticide intended to be used to treat the elephant, hippopotamus, rhinoceros, or tapir for ectoparasites prior to the animal being transported to the United States;

(7) The mode of transportation;

(8) The route of travel;

(9) The port of entry in the United States and, if applicable, the address of the facility to be provided by the importer for inspection, treatment, and incineration pursuant to § 93.6 of this part;

(10) The proposed date of arrival in the United States; and

(11) The name and address of the person to whom the elephant, hippopotamus, rhinoceros, or tapir will be delivered in the United States.

(d) After receipt and review of the application by Veterinary Services, an import permit indicating the applicable conditions under this part for importation into the United States shall be issued for the importation of the elephant, hippopotamus, rhinoceros, or tapir described in the application if such animal appears to be eligible to be imported. Even though an import permit has been issued for the importation of an elephant, hippopotamus, rhinoceros, or tapir, the animal may be imported only if all applicable requirements of this part are met.

§ 93.4 Health certificate.

(a) An elephant, hippopotamus, rhinoceros, or tapir shall not be imported into the United States unless accompanied by a health certificate either signed by a salaried veterinarian of the national veterinary services of the country where the inspection and treatment required by this section occurred or signed by a veterinarian authorized by the national veterinary services of such country and endorsed by a salaried veterinarian of the national veterinary services of such country (the endorsement representing that the veterinarian signing the health certificate was authorized to do so), certifying:

(1) That the elephant, hippopotamus, rhinoceros, or tapir was inspected by the individual signing the health certificate and found free of any ectoparasites not more than 72 hours before being loaded on the means of conveyance which transported the animal to the United States; and

(2) That the elephant, hippopotamus, rhinoceros, or tapir was treated for ectoparasites at least 3 days but not more than 14 days before being loaded on the means of conveyance which transported the animal to the United States. The animal shall have been treated, under the supervision of the individual signing the health certificate, by being thoroughly wetted with a pesticide applied with either a sprayer with a hand-held nozzle, a spray-dip machine, or a dip vat; and

(3) That the elephant, hippopotamus, rhinoceros, or tapir, after being treated for ectoparasites in accordance with paragraph (b)(2) of this section, did not have physical contact with or share a pen or bedding materials with any elephant, hippopotamus, rhinoceros, or tapir not in the same shipment to the United States; and

(4) The name and concentration of the pesticide used to treat the animal (such pesticide and the concentration used must be adequate to kill the types of ectoparasites likely to infest the animal to be imported; a list of recommended pesticides and concentrations may be obtained from the Import-Export Operations Staff, Veterinary Service, Animal and Plant Health Inspection Service, United States Deparatment of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland 20782); and

(5) The name and address of the consignor and consignee.

§ 93.5 Declaration upon arrival.

Upon arrival of an elephant, hippopotamus, rhinoceros, or tapir at a port of entry, the importer of the importer's agent shall notify Veterinary Services of the arrival by giving an inspector a completed VS Form 17-29, "Declaration of Importation for Animals, Animal Semen, Birds, Poultry, and Eggs for Hatching." (This form is available from the Import-Export Operations Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland 20782.) It must state:

(a) The port of entry;

(b) The date of arrival;

(c) The import permit number;

(d) The name of the carrier and identification of the means of conveyance;

(e) The name and address of the importer;

(f) The name and address of the broker;

(g) The country from which the elephant, hippopotamus, rhinoceros, or tapir was shipped;

(h) The number, species, and purpose of importation of the elephant, hippopotamus, rhinoceros, or tapir; and

(i) The name and address of the person to whom the elephant, hippopotamus, rhinoceros, or tapir will be delivered.

§ 93.6 Ports of entry, inspection, and treatment.[1]

(a) An elephant, hippopotamus, rhinoceros, or tapir shall be imported into the United States only:

(1) At Los Angeles, California; Miami, Florida; Honolulu, Hawaii; and Newburgh, New York; or

(2) On a case-by-case basis, at another port of entry if:

(i) The animals will be inspected and treated at a facility provided by the importer;

(ii) The Deputy Administrator has determined that the importer's facility is adequate for inspection, treatment, and incineration required under this section;

(iii) The Deputy Administrator has determined that an inspector is available to perform at the importer's facility the services that are required under this section; and

(iv) The Deputy Administrator has determined that an inspector is available to perform at the port of entry the services that are required under this section if the animals will be inspected and treated at a facility provided by the importer.

(b) An elephant, hippopotamus, rhinoceros, or tapir shall be entered into the United States only under the following conditions:

(1) Any documents accompanying the animal shall be subject to inspection by an inspector at the port of entry;

(2) If the animal is to be moved from the port of entry to a facility provided by the importer:

(i) At the port of entry the animal shall be subject to as much inspection by an inspector as is feasible and shall be sprayed or dipped, as feasible, under the supervision of an inspector and with a permitted dip listed in § 72.13(b) of this chapter;

(ii) At the port of entry, as much hay, straw, feed, bedding, and other material as can feasibly be removed from the shipping crate or vehicle containing the animal shall be removed, sealed in plastic bags, and incinerated by the importer under the supervision of an inspector;

(iii) At the port of entry, the shipping crate or the vehicle containing the animal shall be sealed by an inspector with an official seal of the United States Department of Agriculture:

(iv) If the animal is moved from the port of entry in a shipping crate, plastic must be fastened around the shipping crate so that all animal waste, hay, straw, feed, bedding, and other material accompanying the animal are retained inside the crate, but not so as to interefere with ventilation, feeding, and watering of the animal;

(v) After the arrival of the animal at the facility provided by the importer, the seal shall be broken by an inspector;

(3) The animal shall be inspected by an inspector within 24 hours of being unloaded at the port of entry or at a facility provided by the importer, and shall be treated under the supervision of an inspector, as follows:

(i) The animal shall be removed from its shipping crate or cargo hold, placed on a concrete or other nonporous surface, and physically inspected for ectoparasites by an inspector. If inspection and treatment are not performed upon unloading, the animal must be isolated from all other animals, except those in the same shipment, and kept in a facility with a nonporous floor and where any ectoparasites that may drop off the animal can be contained and destroyed, until the animal has been inspected and treated;

(ii) If the inspector finds no ectoparasites, the animal shall be sprayed or dipped one time in accordance with label instructions with a permitted dip listed in § 72.13(b) of this chapter; or

(iii) If the inspector finds ectoparasites, the animal shall be

[1] Importers must also meet all requirements of the U.S. Department of the Interior regulations relevant to the importation of elephants, hippopotami, rhinoceroses, and tapirs, including regulations concerning ports of entry.

sprayed or dipped in accordance with label instructions with a permitted dip listed in § 72.13(b) of this chapter for as many times as necessary until the inspector finds no ectoparasites; and thereafter the animal shall be sprayed or dipped one additional time in accordance with label instructions with a permitted dip listed in § 72.13(b) of this chapter;

(4) All hay, straw, feed, bedding, and other material that has been placed with the animal at any time prior to the final treatment referred to in paragraph (b)(3) of this section, and any plastic sheet used to wrap any shipping crate, shall be sealed in plastic bags and incinerated under the supervision of an inspector;

(5) Any shipping crate shall be, under the supervision of an inspector, either cleaned and disinfected using a disinfectant listed in § 71.10 of this chapter or incinerated; and if the shipping crate is cleaned and disinfected, it shall then be treated under the supervision of an inspector with a permitted dip listed in § 72.13(b) of this chapter;

(6) Any means of conveyance used to transport an animal not in a shipping crate shall be, under the supervision of an inspector, cleaned and disinfected using a disinfectant listed in § 71.10 of this chapter and then treated with a permitted dip listed in § 72.13(b) of this chapter.

§ 93.7 Animals refused entry.

Any elephant, hippopotamus, rhinoceros, or tapir refused entry into the United States for noncompliance with the requirements of this part shall be removed from the United States within a time period specified by the Deputy Administrator or shall be considered abandoned by the importer, and pending removal or abandonment, the animal shall be subject to such safeguards as the inspector determines necessary to prevent the possible introduction of ectoparasites into the United States. If such animal is not removed from the United States within such time period or is abandoned, it may be seized, destroyed, or otherwise disposed of as the Deputy Administrator determines necessary to prevent the possible introduction of ectoparasites into the United States.

§ 93.8 Other importations.

(a) Elephants, hippopotami, rhinoceroses, and tapirs are exempt from the regulations in this part under the following circumstances:

(1) They are imported from Canada and are accompanied by a document signed by a salaried veterinarian of the Canadian Government that states:

(i) They were not imported into Canada during the year preceding their importation into the United States; and

(ii) They did not, during the year preceding their importation into the United States, have phyusical contact with or share a pen or bedding materials with any elephant, hippopotamus, rhinoceros, or tapir imported into Canada during that year; or

(2) They were exported into Canada from the United States and then imported back into the United States accompanied by a United States health certificate.

(b) Notwithstanding other provisions in this part, the Deputy Administrator may in specific cases allow the importation and entry of elephants, hippopotami, rhinoceroses, or tapirs into the United States other than as provided for in this part under such conditions as the Deputy Administrator may prescribe to prevent the introduction of ectoparasites into the United States.

Done in Washington, DC, this 4th day of August 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-18125 Filed 8-7-87; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

Charges for the Production of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations by revising the charges for copying records publicly available at the NRC Public Document Room in Washington, DC. The amendment is necessary in order to reflect the change in copying charges resulting from the Commission's award of a new contract for the copying of records.

EFFECTIVE DATE: July 9, 1987.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7086.

SUPPLEMENTARY INFORMATION: The NRC maintains a Public Document Room (PDR) at its headquarters at 1717 H Street, NW, Washington, DC. The PDR contains an extensive collection of publicly available technical and administrative records that the NRC receives or generates. Requests by the public for the duplication of records at the PDR have traditionally been accommodated by a duplicating service contractor selected by the NRC. The schedule of duplication charges to the public established in the duplicating service contract is set forth in 10 CFR 9.14 of the Commission's regulations. The NRC has recently awarded a new duplicating service contract. The revised fee schedule reflects the changes in copying charges to the public that have resulted from the awarding of the new contract for the duplication of records at the PDR.

Because this is an amendment dealing with agency practice and procedures, the notice provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). In addition, the PDR users were notified on July 2, 1987, that the new contract was being awarded and that the new prices would go into effect on July 9, 1987. Good cause exists to dispense the usual 30-day delay in the effective date because the amendment is of a minor and administrative nature dealing with agency procedures.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Backfit Analysis

This final rule pertains solely to minor administrative procedures of the NRC; therefore, no backfit analysis has been prepared.

List of Subjects in 10 CFR Part 9

Freedom of Information, Penalty, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 9.

PART 9—PUBLIC RECORDS

1. The authority citation for Part 9 continues to read as follows:

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

2. In § 9.14, paragraph (a)(1) is revised to read as follows:

§ 9.14 Charges for production of records.

(a)(1) Charges for the copying of records at the NRC Public Document Room (PDR), 1717 H Street, NW, Washington, DC by the copying service contractor are as follows:

(i) Six cents per page for paper copy to paper copy, except for engineering drawings and any other records larger than 17 x 11 inches for which the charges vary as follows depending on the reproduction process that is used: Xerographic process—$1.50 per square foot for large documents or engineering drawings (random size up to 24 inches in width and with variable length) reduced or full size; Photographic process—$7.00 per square foot for large documents or engineering drawings (random size exceeding 24 inches in width up to a maximum size of 42 inches in length) full size only.

(ii) Six cents per page for microform to paper copy, except for engineering drawings and any other records larger than 17 x 11 inches for which the charge is $1.25 per square foot or $3.00 for a reduced size print (18 x 24 inches).

(iii) One dollar per microfiche to microfiche.

(iv) One dollar per aperture card to aperture card.

* * * * *

Dated at Bethesda, Maryland, this 28th day of July 1987.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 87-18110 Filed 8-7-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-CE-14-AD; Amdt. 39-5669]

Airworthiness Directives; Piper Aircraft Corp., Models PA-28 and PA-32 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 87-08-08, Amendment 39-5615, applicable to Piper Models PA-28 and PA-32 Series airplanes. This revision will relieve the unintentional burden on PA-28-201T owners/operators by exempting this model from compliance with this AD. The FAA has learned that this model was unintentionally included in the applicability statement and this revision will correct this error. In addition, the following changes are required for clarification: (1) Include reference to Piper Service Letter No. 997 to provide detailed instructions on wing removal; (2) clarify the area to be inspected; and (3) change the mailing address for the inspection reports.

EFFECTIVE DATE: August 12, 1987.

ADDRESSES: Piper Service Letter No. 997 dated May 14, 1987, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. This information may be examined at the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Compliance: As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, ACE-120A, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, FAA, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349; Telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION: AD 87-08-08, Amendment 39-5615 (52 FR 15302; April 28, 1987), applicable to Piper Models PA-28 and PA-32 Series airplanes, was issued to require: (1) Removal of both wings and a visual inspection with a 10-power magnifying glass and a dye-penetrant inspection of the wing lower spar caps; (2) replacement of any spars found to be cracked; and (3) visual inspection of the wing upper skin for cracks and repair as required. The Piper Model PA-28-201T was unintentionally included in the applicability statement of this AD, and creates a burden on the PA-28-201T owners/operators since the inspection on this airplane is unnecessary. In addition to the above changes, the following changes are incorporated into this revision:

1. Piper Service Letter No. 997, dated May 14, 1987, Wing Removal and Reinstallation, is inserted into paragraph (a) of the AD in lieu of those instructions to provide more detailed removal and reinstallation instructions.

2. Paragraph (b) of the AD is changed to require inspection "from the wing skin line" rather than "from two inches outboard," because the inspection area is immediately adjacent to the outboard row of fasteners and there is no reason to remove wing skin in order to inspect under that portion of the wing.

3. Paragraph (d) of the AD is changed to require the report of the results from the inspections be sent to the National Safety Data Branch, AVN-120, P.O. Box 25082, Oklahoma City, Oklahoma 73125; Telephone (405) 686-4391.

Therefore, the FAA is revising AD 87-08-08, Amendment 39-5615 (52 FR 15302; April 28, 1987), applicable to Piper Models PA-28 and PA-32 Series airplanes, by removing the Piper Model PA-28-201T from the applicability statement and adding the above changes that are only clarifying in nature. Since this action removes an unnecessary burden or owners/operators, notice and public procedure hereon are impractical and contrary to public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation 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 remove an unnecessary and costly burden on certain owners/operators. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By revising and reissuing AD 87-08-08, Amendment 39-5615 [52 FR 15302; April 28, 1987], as follows: Revise the applicability statement to read:

Applies to Model PA-28 Series (all serial numbers (S/N)) except the Model PA-28-236; Model PA-28-201T (S/N 28-7921001 through 28-7921091); Model PA-32-260 (S/N 32-1 through 32-7800008); and Model PA-32-300 (S/N 32-40000 through 32-7840202) airplanes certificated in any category.

Change paragraphs (a), (b), and (d) to read as follows:

(a) Remove both wings in accordance with Piper Service Letter No. 997, dated May 14, 1987.

(b) Visually inspect, using a 10-power minimum glass and a dye-penetrant method or equivalent, for cracks in the wing lower spar cap from the wing skin line outboard of the outboard row of wing attach bolt holes to an area midway between the second and third row of bolt holes from the outboard row.

(d) Within five days after completion of the inspections specified in this AD, report the results of the inspections, both positive and negative findings, to the National Safety Data Branch, AVN-120, P.O. Box 25082, Oklahoma City, Oklahoma 73125; Telephone (405) 686-4391. Reports can be made either by telephone or by letter, but must include the owner's name and telephone number, airplane model and S/N, total airframe time, type of operation, and inspection results. (Reporting approved by the Office of Management and Budget under OMB No. 2120-0056.)

This amendment revises AD 87-08-08, Amendment 39-5615.

This amendment becomes effective August 12, 1987.

Issued in Kansas City, Missouri, on July 28, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-18042 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-ASW-41; Amdt. 39-5682]

Airworthiness Directives; Costruzioni Aeronautiche Giovanni Agusta S.p.A. Model A109A and A109A II Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires an initial inspection and repetitive checks for cracks in the tail rotor blade grip on Agusta Model A109A and A109A II helicopters. This amendment is needed to clarify that the inspections are required only for tail rotor blades Part Numbers (P/N) 109-0132-02-11 and -15.

DATES: Effective Date: August 30, 1987.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Agusta Aviation Corporation NE. Service Center, Norcom and Red Lion Roads, Philadelphia, Pennsylvania 19154.

A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76193-0007.

FOR FURTHER INFORMATION CONTACT: John Varoli, Manager, Brussels Aircraft Certification Office, Federal Aviation Administration, c/o American Embassy, APO New York 09667-1011, or Robert Weaver, Rotorcraft Standards Staff, Federal Aviation Administration, Fort Worth, Texas 76193-0111, telephone (817) 624-5122.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by amending Amendment 39-5043 (50 FR 18240), AD 84-13-06, which requires an initial inspection and repetitive checks for cracks in the tail rotor grip and replacement with a serviceable part, as necessary, on certain Agusta A109A and A109A II helicopters, was published in the **Federal Register** on March 19, 1987.

This proposal was prompted because after issuing Amendment 39-5043, the FAA determined that the manufacturer had designed new, improved parts which provided an equivalent level of safety without daily checks or special 25-hour inspections. Therefore, the FAA proposed to amend Amendment 39-5043 by making it applicable only to Agusta Model A109A and A109A II helicopters equipped with tail rotor blades P/N 109-0132-02-11 or -15. The AD will not be applicable to the new, improved blades, P/N 109-0132-02-121.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation only involves a maximum of 46 aircraft with a cost of only $1,600 per fleet inspection ($35 per aircraft). 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 of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By amending Amendment 39-5043 (50 FR 18240; March 19, 1987), AD 84-13-06, by revising the applicability paragraph to limit the AD to Model A109A and A109A II series helicopters equipped with P/N 109-0132-02-11 or -15 tail rotor blades and by revising paragraphs (a) and (b) as follows:

Costruzioni Aeronautiche Giovanni Agusta S.p.A.: Applies to Model A109A and A109A II series helicopters certificated in any category and equipped with P/N 109-0132-02-11 or -15 tail rotor blades.

Compliance is required as indicated unless already accomplished.

* * * * *

(a) Within the next 10 hours' time service, inspect the tail rotor blade grip in accordance with Part I of Agusta Service Bulletin (SB) 109-51, Revision A, or an FAA-approved equivalent, and at each additional 25 hours' time in service, accomplish the inspection of Part III of Agusta SB 109-51, Revision A, or an FAA-approved equivalent.

(b) Prior to the first flight of each day, comply with Part II of the accomplishment instructions of Agusta SB 109-51, Revision A, or an FAA-approved equivalent. This accomplishment may be conducted by the pilot.

* * * * *

This amendment becomes effective August 30, 1987.

Issued in Fort Worth, Texas, on July 10, 1987.

Don P. Watson

Acting Director, Southwest Region.

[FR Doc. 87-18115 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWP-27]

Revision to Napa, CA, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Napa, CA, Airport weather observations are taken by air traffic control tower personnel and are not available when the tower is closed. Since one of the requirements to have a control zone is that a federally certificated weather observer shall take hourly and special weather observations at the airport, this action changes the effective hours of the Napa, CA, control zone to match the hours of operation of the air traffic control tower.

EFFECTIVE DATE: 0901 U.t.c., January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 71 of the Federal Aviation Regulations changes the hours of the Napa, CA, control zone to match the hours of operation of the Air Traffic Control Tower. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71), is amended as follows:

PART 71—[AMENDED]

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Napa, CA [Revised]

Within a 3-mile radius of Napa County Airport (lat. 38°12'48" N., long. 122°16'47" W.). This control zone is effective from 0700 to 2000 hours local time, daily or during specific dates and times established by a Notice to Airmen which will thereafter be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California, on July 29, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 87-18114 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 429

Rule on Cooling-Off Period for Door-to-Door Sales

AGENCY: Federal Trade Commission.

ACTION: Announcement of results of review under the Regulatory Flexibility Act.

SUMMARY: Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and a published Plan for Periodic Review of Commission Rules (46 FR 35118) (1981), the Federal Trade Commission has conducted a review of the Rule on a Cooling-Off Period for Door-to-Door Sales (16 CFR Part 429). The Commission concludes that based on this review there is continued need for the Rule and that there is no reason to believe that the Rule has had a significant impact on a substantial number of small entities. Although this review does not indicate the Rule should be changed, for the reasons set forth in a document published elsewhere in this issue, the Commission is proposing certain non-substantive Rule modifications and proposed exemptions.

FOR FURTHER INFORMATION CONTACT: Lewis Franke, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, Phone 202-326-3009.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities and, if it has such impact, whether the particular rule should be amended to minimize any sigificant economic impact on small entities (5 U.S.C. 601 *et seq.*). The Rule on a Cooling-Off Period for Door-to-Door Sales was promulgated by the Commission on October 26, 1972 (37 FR 22933 (1972)). The Rule makes it an unfair or deceptive act or practice for the seller of consumer goods or services with a purchase price of $25.00 or more, who sells away from the place of business to fail to furnish to the buyer certain information regarding the buyer's right to cancel the sale within three business days from the date of the transaction and to give the buyer a full refund of any downpayment upon the buyer's cancellation.

For the purpose of this review, on March 3, 1983, the FTC published a notice in the **Federal Register** soliciting public comments on the Rule's impact on small entities (48 FR 9032 (1983)).

Questions were posed on: (1) The continued need for the Rule, (2) the burdens, if any, compliance with the Rule places on small entities, (3) changes, which should be made to minimize any economic impact the Rule has had on small business, (4) the extent to which the Rule overlaps, duplicates or conflicts with other rules, and (5) any changed conditions that may have occurred which affect the Rule. Thirteen organizations, consisting of trade associations, companies, and county consumer affairs offices, submitted comments.

Based on the comments received there is no basis to conclude that the Rule has had a significant economic impact on a substantial number of small entities. The comments also indicate that there is a continued need for the Rule. Changes in the Rule were suggested but there was insufficient information upon which to conclude that such changes would minimize the economic impact on small business entities.

With respect to the Rule's relationship to other rules, while there are some differences between the Commission's Rule and state and local rules, they are not such as to warrant repeal or modification of the Commission Rule. Nor have changed conditions occurred since promulgation of the Rule warranting such action.

List of Subjects in 16 CFR Part 429

Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-18062 Filed 8-7-87; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Regulation of Domestic Exchange-Traded Commodity Option Transactions; Exemptive Provision

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission recently proposed to amend Part 33 of its regulations governing domestic exchange-traded commodity option transactions. The Commission proposed new regulation § 33.11 to ensure consistency with other Commission regulations and to facilitate requests for relief from certain provisions of Part 33. The Commission has decided to adopt those amendments to Part 33, as proposed. Thus, regulation § 33.11, as adopted, provides that the Commission, upon written request or upon its own motion, may exempt any person from any provision of Part 33 (except for §§ 33.9 and 33.10) if it finds that such action is not contrary to the public interest.

EFFECTIVE DATE: Effective on August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Harold L. Hardman, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: 254-9880.

SUPPLEMENTARY INFORMATION: On June 11, 1987 (52 FR 22333), the Commission published for comment in the **Federal Register** a proposed amendment to Part 33 of its regulations. That proposed amendment would have added new § 33.11, which would allow the Commission expressly to permit the granting of relief from the provisions of Part 33 in appropriate cases.

The Commission received two comments on this proposal, both of which generally supported the proposed revision. One commentor suggested that the Commission amend proposed rule § 33.11 to exclude from the exemptive authority not only regulations §§ 33.9 and 33.10 (regarding unlawful activities and fraud) but also regulation § 33.3 which declares unlawful commodity option transactions which are not traded on a designated contract market and marketed by registered commodity professionals. The Commission, in proposing § 33.11, did not intend to use its exemptive authority in § 33.11 to allow the trading of options on other than designated contract markets or marketing by unlicensed persons. Indeed, Part 33 of the Commission's regulations governs only the trading of commodity options on contract markets. Rather, the Commission intended that § 33.11 would provide a means of lessening restrictions on exchange-traded commodity option transactions in appropriate cases. Thus, the Commission believes it would be inappropriate and unnecessary to adopt this commentator's suggestion.

The Commission, for reasons set out above and in the June 11 **Federal Register** release, has determined to adopt regulation § 33.11, as proposed. Thus, § 33.11, as adopted, provides that the Commission, upon written request or upon its own motion, may exempt any person from any provision of Part 33 (except §§ 33.9 and 33.10) if it finds, in its discretion, that it would not be contrary to the public interest to grant such exemption. The Commission reiterates, however, that this action is not intended to suggest that the Commission will freely grant exemptive relief from the provisions of Part 33. The Commission will move cautiously in this regard. Thus, any request for exemptive relief must provide in detail why such relief should be granted by the Commission and why, in particular, such relief will not contravene the purposes of the regulations.

The Commission has determined to make this rule effective upon publication. The Administrative Procedure Act provides that a substantive rule which grants or recognizes an exemption or relieves a restriction does not require a 30 day period before the rule can become effective. *See* 5 U.S.C. 553(d). Since this rule is a "substantive rule which grants or recognizes an exemption," as provided in 5 U.S.C. 553(d), it may be placed into effect immediately upon publication.

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small entities. The Commission previously has determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act. *See* 47 FR 18818 (April 30, 1982).

The rule, as adopted, relates to the trading of options on contract markets and thus, does not have a significant economic impact on a substantial number of small entities. The Commission further notes that § 33.11 is an exemptive provision which should not place any additional burden on any affected entity. Accordingly, the Chairman, on behalf of the Commission, certifies, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this regulation will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. Chapter 35, requires agencies no later than the publication of a notice of proposed rulemaking in the **Federal Register** to forward to the Director of the Office of Management and Budget a copy of any proposed rule which contains a collection of information requirement. 44 U.S.C. 3504(h)(1). Because the regulation adopted herein does not contain a collection of information requirement, 44 U.S.C. 3502(4), or an information collection request, 44 U.S.C. 3502(11), the Commission has determined that the provisions of the Paperwork Reduction Act do not apply.

List of Subjects in 17 CFR Part 33

Commodity exchange, Commodity exchange designation procedures, Commodity exchange rules, Commodity futures, Commodity options.

For the reasons set forth in the preamble, Part 33 of the Code of Federal Regulations is amended as follows:

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

1. The authority citation for Part 33 would continue to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 11, 12a, 12c, 13a, 13a-1, 13b, 19 and 21 unless otherwise noted.

2. Section 33.11 is added to read as follows:

§ 33.11 Exemptions.

The Commission may, by order, upon written request or upon its own motion, exempt any person, either unconditionally or on a temporary or other conditional basis, from any provisions of this Part, other than §§ 33.9 and 33.10, if it finds, in its discretion, that it would not be contrary

to the public interest to grant such exemption.

Issued in Washington, DC on August 4, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-18046 Filed 8-7-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 131

[Docket No. 81N-204C]

Milk, Lowfat Milk, and Skim Milk, Pasteurization Requirements for Fluid Milk Products for Consumer Use

AGENCY: Food and Drug Administration.

ACTION: Final rule; termination of stay.

SUMAMRY: The Food and Drug Administration (FDA) is announcing that the stay of that portion of the standard of identity for milk, lowfat milk, and skim milk products that concern the requirement that certified fluid milk products for consumer use be pasteurized is terminated. Elsewhere in this issue of the **Federal Register** under 21 CFR Part 1240—Control of Communicable Diseases, FDA is taking action to require that milk and milk products, certified and noncertified, in final package form for human consumption in interstate commerce be pasteurized.

EFFECTIVE DATE: September 9, 1987.

FOR FURTHER INFORMARTION CONTACT: Robert J. Lahan, Center for Food Safety and Applied Nutrition (HFF-302), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0162.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1972 (37 FR 18392), FDA, under section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341), proposed to revise existing standards of identity and to establish new standards of identity for certain milk and cream products. This notice included an FDA proposal to require that each of the listed milk and cream products be pasteurized.

In the **Federal Register** of October 10, 1973 (38 FR 27924), FDA published a final rule which included the requirement that milk products moving in interstate commerce be pasteurized. In deciding upon the pasteurization requirement, FDA reasoned that pasteurization was the only way to assure the destruction of pathogenic microorganisms that might be present.

Following publication of the final rule, FDA received one request for a hearing and an accompanying set of objections on the pasteurization requirement for certified raw milk. The procedures used in producing certified raw milk are significantly different from those used in producing raw milk in general in that they must comport with the methods and standards established by the American Association of Medical Milk Commissions, a private organization that provides to its members guidelines for the production of certified raw milk. Only dairies that employ the Association's techniques have the right to use the term "certified" on their products. The objections, which pertained only to certified raw milk, were based on two premises: (1) Certified raw milk is a safe product, and (2) section 401 of the Act (21 U.S.C. 341) does not provide authority to establish a standard of identity solely for health reasons.

In the preamble of the **Federal Register** of December 5, 1974, (39 FR 42351), FDA announced that the objections raised a substantial issue of fact with regard to whether pasteurization is needed for certified raw milk and that a hearing would be conducted. Accordingly, FDA stayed this requirement for certified raw milk.

This stayed requirement for certified raw milk has been rendered moot by the agency's issuance elsewhere in this issue of the **Federal Register** of a final rule requiring that all milk and milk products, certified and noncertified, in final package form for human consumption in interstate commerce be pasteurized. This fianl rule was issued in response to a decision by the United States District Court for the District of Columbia ordering "that the Food and Drug Administration and the Secretary of Health and Human Services publish in the **Federal Register,** a proposed rule banning the interstate sale of all raw milk and raw milk products, both certified and non-certified, pursuant to the provisions of 5 U.S.C. section 553 and complete all rulemaking proceedings in accordance with this Court's opinion within one hundred eighty (180) days." *Public Citizen* v. *Heckler,* 653 F. Supp. 1229, 1242 (D.D.C. 1986). The proposal was published in the **Federal Register** of June 11, 1987 (52 FR 22340).

Therefore, consistent with the court decision, the agency is announcing that the stay of that portion of the standards of identity for milk, lowfat milk, and skim milk products that concern the requirement that certified fluid milk products for consumer use be pasteurized is hereby terminated.

List of Subjects in 21 CFR Part 131

Cream, Food standards, Milk, Yogurt.

PART 131—MILK AND CREAM

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10); *It is ordered* that the stay announced in the preamble of the **Federal Register** of December 5, 1974 (39 FR 42351) is terminated.

Dated: August 5, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-18191 Filed 8-6-87; 3:14 pm]

BILLING CODE 4160-01-M

21 CFR Part 1240

[Docket No. 81N-204C]

Requirements Affecting Raw Milk for Human Consumption in Interstate Commerce

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final regulation requiring that milk and milk products in final package form for human consumption in interstate commerce be pasteurized. The final regulation does not apply to the interstate transportation of raw (unpasteurized) milk to dairy processing plants for pasteurization or to raw milk products in intrastate commerce. The final regulation also does not apply to milk and milk products for which an alternative to pasteurization is established in a standard of identity regulation.

EFFECTIVE DATE: September 9, 1987.

FOR FURTHER INFORMATION CONTACT: Robert J. Lenahan, Center for Food Safety and Applied Nutrition (HFF-302), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0162.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 11, 1987 (52 FR 22340), FDA issued a notice of proposed rulemaking in response to a decision by the United States District Court for the District of Columbia ordering "that the Food and Drug Administration and the Secretary of Health and Human Services publish in the **Federal Register,** a

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proposed rule banning the interstate sale of all raw milk and raw milk products, both certified and non-certified, pursuant to the provisions of 5 U.S.C. section 553 and complete all rulemaking proceedings in accordance with this Court's opinion within one hundred eighty (180) days." *Public Citizen* v. *Heckler*, 653 F. Supp. 1229, 1242 (D.D.C. 1986). The notice proposed a pasteurization requirement for all milk and milk products in final package form in interstate commerce. The proposed requirement did not apply to the interstate shipment of raw milk to dairy plants for pasteurization or to products for which procedures are provided by regulation (such as in 21 CFR Part 133, which pertains to the curing of certain varieties of cheese).

The agency invited public comment on the proposal. Because of the time constraint imposed upon the agency by the Court in ordering the completion of "all rulemaking proceedings," FDA limited the comment period to 30 days. In this notice, the agency is issuing a final rule based on the proposal.

The provisions of the Public Health Service Act that relate to communicable disease (42 U.S.C. 216, 243, 264, and 271) form the legal basis for the final rule. The Public Health Service Act authorizes the Department of Health and Human Services (HHS) to make and enforce such regulations as "are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States * * * or from one State * * * into any other State" (42 U.S.C. 264(a)). Five regulations banning the distribution of products have been published under this section: § 1240.60 *Shellfish* (21 CFR 1240.60); § 1240.62 *Turtles, intrastate and interstate* (21 CFR 1240.62); § 1240.65 *Psittacine birds* (21 CFR 1240.65); § 1240.70 *Lather brushes* (21 CFR 1240.70); and § 1240.75 *Garbage* (21 CFR 1240.75). Additional support for the final rule is found in sections 402(a) (1), (3), and (4) and 701(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 342(a) (1), (3), and (4) and 371(a)). Under these sections, FDA is authorized to promulgate regulations for preventing adulterated or contaminated food, such as unpasteurized milk containing harmful microorganisms, from entering interstate commerce.

I. Background

A. Standard of Identity Proceedings

Over the years, FDA regulation of milk and milk products, in conjunction with State and local dairy associations, has been pervasive. A brief history of this proceeding reveals that the final rule is consistent with past agency action and will not have a burdensome impact on milk producers.

In the **Federal Register** of September 9, 1972 (37 FR 18392), FDA, under section 401 of the act (21 U.S.C. 341), proposed to revise existing standards of identity and to establish new standards of identity for certain milk and cream products. This notice included an FDA proposal to require that each of the listed milk and cream products be pasteurized.

In the **Federal Register** of October 10, 1973 (38 FR 27924), FDA published a final rule which included the requirement that fluid milk products moving in interstate commerce be pasteurized. In deciding upon the pasteurization requirement, FDA reasoned that pasteurization was the only way to assure the destruction of pathogenic microorganisms that might be present.

Following publication of the final rule, FDA received one request for a hearing and an accompanying set of objections on the pasteurization requirement for certified raw milk. The procedures used in producing certified raw milk are significantly different from those used in producing raw milk in general in that they must comport with the methods and standards established by the American Association of Medical Milk Commissions, a private organization that provides to its members guidelines for the production of certified raw milk. Only dairies that employ the Association's techniques have the right to use the term "certified" on their products. The objections, which pertained only to certified raw milk, were based on two premises: (1) Certified raw milk is a safe product, and (2) section 401 of the act (21 U.S.C. 341) does not provide authority to establish a standard of identity solely for health reasons.

In the **Federal Register** of December 5, 1974 (39 FR 42351), FDA announced that the objections raised a substantial issue of fact with regard to whether pasteurization is needed for certified raw milk and that a hearing would be conducted. Accordingly, FDA stayed this requirement for certified raw milk. Elsewhere in this issue of the **Federal Register**, the agency is announcing that the stay of December 5, 1974 (39 FR 42351), concerning certified raw milk, is terminated.

The requirement for pasteurization for all other milk and milk products covered by the new standards of identity was made final in the December 5, 1974, final rule. Therefore, since December 1974 any such milk product that is in final package form for human consumption moving in interstate commerce, but that is not pasteurized, is misbranded. See section 403(g) of the act (21 U.S.C. 343(g)). Most milk and milk prouducts in final package form for human consumption in intrastate commerce are also required by various State laws to be pasteurized.

B. Citizen Petition

On April 10, 1984, the Health Research Group (HRG) of Public Citizen, a privately-funded advocacy organization, petitioned the Secretary of HHS to "promulgate a regulation banning all sales, interstate and intrastate,of raw (unpasteurized) milk and raw milk products in the United States."

C. Public Hearing (October 11 and 12, 1984)

In the **Federal Register** of August 3, 1984 (49 FR 31065), FDA announced a public hearing to receive information on whether milk and milk products sold for human consumption should be pasteurized. The notice, published in part in response to the citizen petition, encouraged interested persons to present information, data, and views on the following issues:

1. Whether the consumption of raw milk, including certified raw milk and raw milk products, is of public health concern; and

2. If the answer to issue 1 is yes, whether requiring pasteurization of raw milk, including certified raw milk and raw milk products, is the most reasonable regulatory option.

The notice of hearing stressed that the purpose of the hearing was to develop an administrative record upon which sound agency action could be based. The hearing resulted in a 330-page transcript and well over 300 comments totaling approximately 4,000 pages.

Over 30 witnesses either submitted written testimony or testified at the public hearing. Most of the witnesses testifying against any Federal regulation of raw milk and raw milk products acknowledged that associations between the consumption of raw milk and the onset of disease have been reported, but pointed out that many other foods, against which no similar Federal action is contemplated, also present sources of exposure to harmful microorganisms. Other witnesses asserted that the "relative risk" of contracting communicable disease from raw milk, in particular certified raw milk, is low when compared to other potential sources of infection.

Several witnesses testified that, in the absence of a definitive case-control study, there is no way to determine whether the apparent association between drinking raw milk and being infected by harmful microorganisms is causal, and encouraged HHS to sponsor such a study rather than ban raw milk.

Many witnesses testified in favor of some form of ban on raw milk. These witnesses argued that the risks associated with the consumption of raw milk, including certified raw milk, outweigh any benefits from its consumption.

D. Court Related Developments

On September 19, 1984, after FDA had announced the public hearing, but before the hearing was held, HRG filed suit in Federal district court to compel HHS to promulgate a regulation banning all sales, interstate and intrastate, of raw milk and raw milk products in the United States.

On January 14, 1985, in *Public Citizen* v. *Heckler*, 602 F. Supp. 611 (D.D.C. 1985), the Court held that there had been unreasonable delay in deciding whether there should be additional Federal regulation of raw milk as requested in the April 10, 1984, HRG petition and ordered HHS to respond to the petition.

By letter dated March 15, 1985, the Commissioner of Food and Drugs denied the petition, stating that the agency would not ban either interstate or intrastate sales of raw milk (Ref. 18). The letter acknowledged that "raw milk, including certified raw milk, is a vehicle for the transmission and spread of communicable diseases," but concluded that a Federal ban on the interstate shipment of raw milk would not be the most appropriate means of dealing with the health problems posed by unpasteurized milk and milk products, and would have minimal public health benefit, given the current patterns of distribution and sale of these products. The letter further explained that FDA's authority to prohibit the intrastate sale of raw milk was at least questionable and that, in any case, State and local authorities were fully able to take action to ban the product should they consider it appropriate to do so.

Following FDA's denial of its citizens' petition, HRG again filed suit in the Federal district court, this time seeking judicial review of the agency action. HRG asked the Federal district court to compel HHS to initiate a new rulemaking proceeding banning both interstate and intrastate sales of raw milk.

In *Public Citizen* v. *Heckler*, 653 F. Supp. 1229 (D.D.C. 1986), the Court ruled that the agency's denial of the HRG petition was arbitrary and capricious in light of the record compiled in the proceeding before the agency. The Court concluded that the record presents "overwhelming evidence of the risks associated with the consumption of raw milk, both certified and otherwise * * *" and is "replete with credible evidence of the danger of raw milk consumption, and the support of various organizations, both within and without the Government, for a federally imposed interstate ban," (653 F. Supp. at 1238). The Court went on to state that the evidence FDA has accumulated concerning raw milk "conclusively" shows that raw and certified raw milk are unsafe (653 F. Supp. at 1232, 1241). According to the Court, "There is no longer any question of fact as to whether the consumption of raw milk is unsafe." (653 F.2d at 1241). The Court ruled that FDA should propose a rule "banning the interstate sale of all raw milk and raw milk products, both certified and noncertified * * *." (653 F. Supp. at 1242). The Court also found that there was no indication that a rule banning the intrastate shipment of raw milk would be necessary to carry out an interstate ban.

II. Comments on the Proposed Regulation

A. Overview

Numerous comments were received on the agency's proposed regulation. Three comments opposed the requirement that raw milk be pasteurized. All the remaining comments favored the proposed rule on the basis that the risks associated with consuming raw milk, including certified raw milk, outweigh any benefits from its consumption. Comments favoring the proposed rule include the American Academy of Pediatrics, the National Milk Producers, the National Association of State Departments of Agriculture, the Centers for Disease Control, and numerous State departments of health.

In its comments opposing a final rule, Stueve's Natural (Stueve) (formerly Alta-Dena Dairy) urged FDA not to ban certified raw milk because it is safe and has never been shown to cause illness. Stueve also suggested that individuals have the right to freely choose whether the benefits of raw milk outweigh its potential risks. Moreover, Stueve contended that raw milk, in particular certified raw milk, is being singled out for unwarranted, selective attention by FDA and other public health authorities because other ready-to-consume foods are, naturally or by viture of cross-contamination, major sources of disease and are not subject to strict Government regulation. Similarly, Stueve argued that contaminated or improperly pasteurized milk represents a far more serious health hazard than does raw milk. Stueve also questioned whether pasteurization would kill *Salmonella dublin* (*S. dublin*) microorganisms and whether a requirement for pasteurization of milk would have any significant impact on the public health. Stueve submitted data and information in support of its contentions.

Congressman William E. Dannemeyer also filed comments opposing a final rule. In addition to identifying the same issues Stueve raised, the Congressman stressed the nutritional and immunologic benefits of raw milk.

Based on its review and evaluation of all data and information submitted, FDA has concluded that these contentions are unconvincing when considered in light of the known, documented health risks associate with the consumption of raw milk, as discussed below.

B. The Association Between Raw Milk and the Outbreak of Disease

The administrative record compiled as a result of the hearing and rulemaking process demonstrates that there is an association between the consumption of raw milk and the outbreak of disease (Refs. 1 through 12 and 14 through 16). The record also demonstrates an association between the consumption of certified raw milk and the outbreak of disease, particularly among consumers who are young, elderly, or infirm (Refs. 1 through 12 and 16).

In its comments, however, Stueve argued that raw milk and certified raw milk have never been shown to "cause" disease. The argument is based on the fact that the data and information that associate the consumption of raw milk with the outbreak of disease are not the result of blinded, prospective case-control studies but rather the result of epidemiological, retrospective evaluations of case studies. Epidemiological investigations are not designed to establish causation per se but rather to test the strength of an "association" between an event and a possible cause.

The record of this proceeding reveals that on the basis of epidemiological evidence "the role of unpasteurized dairy products, including raw and certified raw milk, in the transmission of disease has been established repeatedly" (Ref. 4; see also Refs. 1 through 3, 5 through 12, and 14 through 16). For example, the California Department of Health Services (CDHS) has reported that 50 percent of all the *S.*

dublin infection cases reported in California in 1984 invovled the use of certified raw milk. According to CDHS, no other risk factor has been prevalent among cases. For example, even though *S. dublin* is host adapted to cattle, only a small percent (15 percent or less) of cases report use of either lightly cooked or uncooked beef or beef products. CDHS concluded that the relative risk of contracting *S. dublin* is 158 times greater for those Californians who consume certified raw milk than for those who do not drink any form of raw milk (Refs. 3 and 12). CDHS considered this relative risk "extremely large and among the largest obtained in any epidemiologic investigation." (CDHS' observations are consistent with those discussed in the preamble to the proposed rule (52 FR 22342 and 22343). Under these circumstances, to conduct the type of studies Stueve would seem to be calling for would appear not only unnecessary but also ethically questionable.

C. Selective Enforcement

In an October 1984 survey, CDC addressed the type of selective enforcement issues raised by Stueve (Ref. 4). CDC pointed out that other ready-to-consume foods of domestic animal origin are subjected to processing procedures designed to render them safe for consumption and are microbiologically monitored for adequacy of processing. Raw foods of animal origin, such as chicken, may also be contaminated with microorganisms such as *Salmonella* and *Campylobacter*, but are normally cooked before consumption. CDC noted that extensive efforts are routinely made by public health agencies to inform the public of the hazards and the proper cooking procedures for these products. For other foods, like oysters, that are often consumed raw, CDC noted that practical measures to eliminate the contamination are not available. A practical measure—pasteurization—is available for milk and milk products. Under these circumstances, the agency finds no merit in any argument that raw milk in interstate commerce is wrongly being singled out for regulation.

D. Certification

Raw milk, no matter how carefully produced, may be unsafe. Accordingly, raw milk products may be unsafe. Examinations of cattle and of milk handlers can be done only at intervals. Consequently, pathogenic organisms may enter the milk during these intervals and be transmitted to humans before the presence of the organisms or the existence of a disease condition in cattle or handlers is discovered.

Moreover, it has not been shown to be feasible to perform routine bacteriological tests on the raw milk itself to determine the presence or absence of all pathogens and thereby ensure that it is free from infectious organisms.

In the past, supporters of certified raw milk pointed to standards such as total bacterial counts as proof of safety, but the high incidence of disease associated with certified raw milk is strong evidence that these standards are unreliable indexes of safety. In addition, the American Association of Medical Milk Commissions, the entity that "certifies" raw milk, recently deleted any mention of *Salmonella*, a known pathogen, from its standards (Ref. 17).

Thus, in FDA's view, "certification" does not provide a reliable index of whether milk or milk products are contaminated with pathogenic bacteria. For example, certified raw milk cannot be certified free of *Salmonella* organisms (Ref. 13). Milk is an excellent vehicle of infection because its fat content protects pathogens from gastric acid, and, being fluid, it has a relatively short gastric transit time. Opportunities for the introduction and persistence of *Salmonella* organisms on dairy premises are numerous and varied, and technology does not exist to eliminate *Salmonella* infection from dairy herds or to preclude the re-introduction of *Salmonella* organisms. Moreover, recent studies show that cattle can carry and shed *S. dublin* organisms for many years and demonstrated that *S. dublin* organisms cannot be routinely detected in cows that are "mammary gland" shedders (Ref. 13).

In light of the foregoing, FDA concludes that the certification process alone provides no assurance that raw milk is free of *Salmonella* and other harmful organisms.

E. Effectiveness of Requiring Pasteurization as a Means of Controlling Disease

Stueve contended that the effects of past bans on raw milk in Scotland and (on a temporary basis) in California support the proposition that the overall rate of *S. dublin* related outbreaks from all possible sources of exposure will not decline if a ban on certified raw milk and raw milk products is imposed.

Stueve did not submit data or information adequate to support these conclusions, and information available to the agency on the effects of the ban on raw milk in Scotland contradicts Stueve's contention of no effect. During 1980 through 1982, 3 years before the pasteurization requirement in Scotland went into effect, there were 14 outbreaks of milk-borne *Salmonella* infections involving over 1,090 people. In the year that followed the ban of raw milk, only two small outbreaks involving a total of nine persons who consumed raw milk at a local dairy farm were reported (Ref. 11).

It is true that the population exposed to certified raw milk in interstate commerce is relatively small compared to the population exposed to other sources of *S. dublin* (Ref. 12), and that one would, therefore, not expect a significant change in the rate of *Salmonella* infection in the overall population if interstate sales were banned as a result of this rule. Such expectations regarding the effect of a ban on the overall rate of *Salmonella* infections are not dispositive, however, in light of the fact that the relative risk of infection for those who do consume raw milk, including certified raw milk, appears to be quite large. The proposed ban on all raw milk would eliminate the risk arising from milk and milk products in interstate commerce.

Stueve also contended that heating milk at 80 °C for 30 minutes (one form of pasteurization) would not completely kill *S. dublin* microorganisms. Stueve submitted no data in support of this proposition, but did refer to an unpublished 1961 (later published in 1962) paper for its authority. The paper appears to be based on laboratory procedures now recognized as totally inadequate for thermal resistance testing since they allow a portion of the bacterial population to receive incomplete heating and to appear to be thermoresistant survivors. All information available to the agency documents that pasteurization, when performed as prescribed in the final rule, effectively eliminates *S. dublin* as well as numerous other harmful microorganisms.

F. Health Benefits of Consuming Raw Milk

The theoretical health benefits of raw milk have never withstood scientific scrutiny. Conversely, the fact that raw milk presents a substantially greater inherent risk of infectious disease has been documented repeatedly. Numerous articles have reported that pasteurization has either no effect or practically no effect on the major nutrients in milk. These reports also document that pasteurization has little or no effect on milk's protein, minerals, riboflavin, fat, carbohydrate, niacin, pantothenic acid, vitamin B_6, vitamin A, vitamin D, vitamin E, and vitamin K (Rej. 19). Also, a recent investigation found that pasteurization of human milk

profoundly reduces the number of bacteria but does not significantly affect the milk's immunological factors (Re. 20). Based upon this and related information contained in the administrative record, FDA concludes that pasteurization does not significantly change the nutritive or immunologic value of milk and that the risks associated with the consumption of raw milk, including certified raw milk, outweigh any alleged health benefits that may arise from consuming raw milk and certified raw milk,

III. Alternatives to a Ban

In proposing to require raw milk and raw milk products in final package form for direct human consumption, including certified raw milk, to be pasteurized before being shipped in interstate commerce, the agency requested comments on possible alternatives to such a requirement. The overwhelming majority of the comments that addressed alternatives opposed any approach other than ban.

One alternative the agency suggested for comment was the use of labeling to ensure that consumers who voluntarily choose to consume raw milk are informed as to the risks inherent in that choice. Although Stueve indicated support for the concept of consumer choice in its comments, no appropriate labeling was suggested in comments on the proposed rule; in fact, all comments (including Stueve) opposed labeling. The effectiveness of labeling to address a public health problem like that presented by the consumption of raw milk and raw milk products was questioned on several grounds. For example, the risk of infection from consuming raw milk and raw milk products does not arise from the misuse or abuse of the product but rather from its customary food use. Consumers are not generally expected to take any additional steps to reduce the potential risk and are poorly equipped to assess the likelihood of infection. The infirm, the elderly, and the young are particularly susceptible to serious risks of infection presented by consuming raw milk and raw milk products and, in many cases, may not have the ability or the opportunity to understand the risks identifed in labeling. For these reasons, the agency concludes that labeling is not an acceptable alternative approach.

The agency also requested comments on whether available laboratory methods and analytical methodologies would permit rapid detection of harmful bacteria and could be used either alone or in conjunction with labeling as an alternative to banning raw milk and raw milk products in interstate commerce.

In reponse, Stueve and Flavorcraft, Inc., who objected to the pasteurization requirement, identified several possible methodologies, each of which is too time consuming (no shorter than 24 hours in duration) to be of practical value in the dairy industry. In addition to the problems noted above (Section II. C), the short shelf life of milk and the existence of multiple organisms that may pose human health concerns remain major obstacles to relying on a system designed to detect microorganisms. Regarding this subject, the agency agrees with the comment of the American Academy of Pediatrics: "The fact is that there is no laboratory test available that will simultaneously and instantaneously screen for brucellosis, tuberculosis, salmonellosis, listeriosis * * *." Existing screening technologies are an inadequate alternative to pasteurization as a means of ensuring the safety of milk and milk products (Ref. 17).

IV. Conclusion

As noted in Section I. A, most milk and milk products in interstate commerce are pasteurized. Some unpasteurized milk and milk products, particularly certified raw milk and raw milk products, are currently shipped in interstate commerce. As noted in the preamble to the proposal, however, the amount of such products in interstate commerce is small. Currently, Stueve is the only producer of certified raw milk in the United States. Stueve distributes its raw milk products primarily within the State of California. Accordingly, the health problems associated with raw milk and raw milk products appear, as Stueve contends, to be associated mostly with products shipped intrastate. For this reason, FDA has been of the view that State and local authorities may be better situated to deal with the public health problems attributable to unpasteurized milk and that an interstate ban would have a limited effect on these problems (Ref. 18).

Comments disagreed with this view, contending, in effect, that any form of raw milk in interstate commerce poses a health risk and, therefore, Federal regulation in this area is appropriate. The Court held a similar view: "Federal regulation is warranted regardless of the absolute volume of certified raw milk sold interstate." (653 F. Supp. at 1240.)

The difference in viewpoint between the agency and the Court and comments received has concerned the appropriate way to use Federal resources and the level of government that is best suited to dealing with problems created by raw milk, not the fact that unpasteurized milk and milk products present health risks. FDA recognizes that the pasteurization requirement for raw milk and raw milk products shipped in interstate commerce is legally and scientifically defensible. In light of the opinions expressed in the comments; the documented risks presented by raw milk, including raw milk and raw milk products; the fact that such products are, indeed, shipped in interstate commerce; and the likelihood that a pasteurization requirement for such products in interstate commerce will result in some benefit to the public health, FDA has concluded that the use of Federal authority and resources to eliminate health problems caused by the interstate shipment of raw milk is justifiable. Accordingly, the agency believes that a final rule requiring the pasteurization of all raw milk and raw milk products in interstate commerce should issue in this proceeding. The final rule does not apply to the interstate transportation of raw (unpasteurized) milk to dairy processing plants for pasteurization or to raw milk and raw milk products in intrastate commerce. The final rule also does not apply to milk and milk products for which an alternative to pasteurization is established in a standard of identity regulation published pursuant to 21 U.S.C. 341.

V. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the proposed rule of June 11, 1987 (52 FR 22340). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VI. Economic Impact

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as defined by the Order. The agency has not received any new

information or comments that would alter its previous determination.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Morrison, F. R., Research Program Specialist, Department of Health Services, Health and Welfare Agency, State of California, letter to Paul M. Fleiss, July 7, 1983, Re: "Attack rates for *S. dublin* Infection and Raw Milk Use."

2. Richwald, G. A., et al., UCLA School of Public Health, "An Assessment of Risks Associated with Raw Milk Consumption in California," March 31, 1986.

3. Lyman, D. O., Chief, Health Protection Division, Department of Health Services, Health and Welfare Agency, State of California, letter and report to FDA, August 30, 1984, Re: "Disease in California Associated with Certified Raw Milk."

4. Potter, M. E., et al., "Unpasteurized Milk, The Hazards of a Health Fetish," *Journal of the American Medical Association*, 252 (15): 2048–2052, October 19, 1984.

5. Chin, J., "Raw Milk: A Continuing Vehicle for the Transmission of Infectious Disease Agents in the United States," *Journal of Infectious Diseases*, 146 (3): 440–441, September 1982.

6. Morbidity and Mortality Weekly Report, "*Salmonella dublin* and Raw Milk Consumption—California," April 13, 1984, Centers for Disease Control, HHS/PHS.

7. Werner, S. B., et al., "Association Between Raw Milk and Human *Salmonella dublin* Infection," *British Medical Journal*, July 26, 1979.

8. Fierer, J., "Invasive *Salmonella dublin* Infections Associated with Drinking Raw Milk," *Western Journal of Medicine*, 138 (5): 665–669, May 1983.

9. Potter, M. E., Veterinary Epidemiologist, Center for Infectious Diseases, Centers for Disease Control, HHS/PHS, Presentation on the Adverse Health Effects on Consuming Raw or Unpasteurized Milk, September 1984.

10. Foege, W. H., Assistant Surgeon General, Director, Centers for Disease Control, HHS/PHS, letter to J. C. Bolton, May 27, 1983, Re: "The Safety of Raw Milk and Its Association With Human Diseases."

11. Sharp, J. C. M., Consultant Epidemiologist, Communicable Diseases (Scotland) Unit, Ruchill Hospital, Glasgow, letter to M. E. Potter, Centers for Disease Control, HHS/PHS, May 29, 1984, Re: "Experience in Scotland of Milk-Borne Infection Subsequent to the Introduction of Compulsory Pasteurization on August 1, 1983."

12. Werner, S. B., Medical Epidemiologist, Infectious Disease Section, Department of Health Services, Health and Welfare Agency, State of California, letter to J. Bolton, July 12, 1983, Re: "Statistics on How the Risk of Contracting *S. dublin* Infections in Association With Raw Milk Exposure Compares With that in Persons Not Using Raw Milk."

13. Currier, R. W., "Raw Milk and Human Gastrointestinal Disease: Problems Resulting from Legalized Sale of 'Certified Raw Milk,'" *Journal of Public Health Policy*, pp. 226–234, September 1981.

14. Korlath, J., et al., "A Point-Source Outbreak of Campylobacteriosis Associated with Consumption of Raw Milk," *Journal of Infectious Diseases*, 152 (3): 592–596, 1985.

15. Osterholm, M., et al., "An Outlook of a New Recognized Chronic Diarrhea Syndrome Associated with Raw Milk," *JAMA*, 256 (4): 484–490, 1986.

16. Werner, S. Benson, Department of Health Services, Health and Welfare Agency, State of California, letter dated July 10, 1987, to Dockets Management Branch, FDA, Re: "Requirements Affecting Raw Milk for Human Consumption in Interstate Commerce—Docket No. 81N-204C."

17. Strain, James E., Executive Director, American Academy of Pediatrics, letter to Dockets Management Branch, FDA, July 13, 1987, Re: "Requirements Affecting Raw Milk for Human Consumption in Interstate Commerce—Docket No. 81N-204C."

18. Letter dated March 15, 1985, from the Commissioner of Food and Drugs to Sidney M. Wolfe.

19. National Dairy Council, statement relative to the comparison of the nutrient content of raw versus pasteurized milk products.

20. Goldbaum, R. M., et al, "Rapid High-Temperature Treatment of Human Milk," *Journal of Pediatrics*, 104 (3): 380–385, March 1984.

List of Subjects in 21 CFR Part 1240

Communicable diseases, Public health, Travel restrictions, Water supply.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and the Public Health Service Act, it is proposed that Part 1240 be amended as follows:

PART 1240—CONTROL OF COMMUNICABLE DISEASES

1. The authority citation for 21 CFR Part 1240 is revised to read as follows:

Authority: Secs. 215, 311, 361, 368, 58 Stat. 690, 693, 703 as amended, 706 (42 U.S.C. 216, 243, 264, 271); 21 CFR 5.10, 5.11.

2. By adding new § 1240.61 to Subpart D to read as follows:

§ 1240.61 Mandatory pasteurization for all milk and milk products in final package form intended for direct human consumption.

(a) No person shall cause to be delivered into interstate commerce or shall sell, otherwise distribute, or hold for sale or other distribution after shipment in interstate commerce any milk or milk product in final package form for direct human consumption that has not been pasteurized except where alternative procedures are provided by regulation, such as Part 133 of this chapter for curing of certain cheese varieties.

(b) Except as provided in paragraphs (c) and (d) of this section, the terms "pasteurization," "pasteurized," and similar terms shall mean the process of heating every particle of milk and milk product in properly designed and operated equipment to one of the temperatures given in the following table and held continuously at or above that temperature for at least the corresponding specified time:

Temperature	Time
145 °F (63 °C) [1]	30 minutes.
161 °F (72 °C) [1]	15 seconds.
191 °F (89 °C)	1 second.

[1] If the fat content of the milk product is 10 percent or more, or if it contains added sweeteners, the specified temperature shall be increased by 5 °F (3 °C).

Temperature	Time
194 °F (90 °C)	0.5 second.
201 °F (94 °C)	0.1 second.
204 °F (96 °C)	0.05 second.
212 °F (100 °C)	0.01 second.

(c) Eggnog shall be heated to at least the following temperature and time specification:

Temperature	Time
155 °F (69 °C)	30 minutes.
175 °F (80 °C)	25 seconds.
180 °F (83 °C)	15 seconds.

(d) Neither paragraph (b) nor (c) of this section shall be construed as barring any other pasteurization process that has been recognized by the Food and Drug Administration to be equally efficient in the destruction of microbial organisms of public health significance.

Frank E. Young,

Commissioner of Food and Drugs.

Otis R. Bowen,

Secretary of Health and Human Services.

Dated: August 6, 1987.

[FR Doc. 87-18190 Filed 8-6-87; 3:13 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 22 and 51

[108.863]

Schedule of Fees for Consular Services and Refund of Fees

AGENCY: Department of State, Bureau of Consular Affairs.

ACTION: Final rule.

SUMMARY: The Department of State is amending its regulations to provide that refunds of fees or other payments for

amounts totaling $5.00 or less will not be made unless specifically requested by the person who has overpaid. The amendment will eliminate the cost to the Department and to the Treasury of processing and mailing checks that is not commensurate with the amounts involved. The amendment to the regulation will save the Government a considerable amount of money and time.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: William B. Wharton, Director, Office of Citizenship Appeals and Legal Assistance, Telephone (202) 326-6172.

SUPPLEMENTARY INFORMATION: Present regulations provide for the refund of any excess fees submitted to the Department or posts abroad with a passport application or a request for other consular services. When individuals remit payments in excess of the amount due, the Department deposits the payments directly into the U.S. Treasury and then requests the Treasury to refund any excess.

It has been established that refunds of $5.00 or less are not cost effective. Approximately 65 percent of refunds are for overpayments of two dollars or less. The cost of processing these refunds far exceeds the amounts to be refunded. The Comptroller General in Decision B-220942 has approved that refunds of overpayments of $5.00 or less should not be made unless specifically claimed.

Under the provisions of the Regulatory Flexibility Act (5 U.S.C. 301 *et. seq.*), it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

The provisions of the Paperwork Reduction Act do not apply. (44 U.S.C. Ch. 35). On February 25, 1987, at 52 FR 5549 the Department of State published a Proposed Rule to amend the regulations at 22 CFR 22.6 and 51.64. Interested parties were invited to submit written comments by April 27, 1987. No comments were received.

List of Subjects

22 CFR Part 22

Foreign Service, Passports and visas.

22 CFR Part 51

Passports and visas.

PART 22—[AMENDED]

1. The authority citation for Part 22 is revised to read as follows:

Authority: Secs. 3, 4, 63 Stat. 111, as amended; 22 U.S.C. 211a; 214, 2651, 2658, 3921, 4219; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632; E.O. 11295, 31 FR 10603; 3 CFR, 1954-1958 Comp. p. 507 unless otherwise noted.

2. Section 22.6 is revised to read as follows:

§ 22.6 Refund of fees.

(a) Fees which have been collected for deposit in the Treasury are refundable:

(1) As specifically authorized by law (See 22 U.S.C. 214a concerning passport fees erroneously charged persons excused from payment, 22 U.S.C. 216 concerning passport fees in cases where the appropriate representative in the United States of a foreign government refuses a visa and 46 U.S.C. 8 concerning fees improperly imposed on vessels or seamen);

(2) When the principal officer at the consular post where the fee was collected (or the officer in charge of the consular section at a combined diplomatic/consular post) finds upon review of the facts that the collection was erroneous under applicable law; and

(3) Where determination is made by the Department of State with a view to payment of a refunded in the United States in cases which it is impracticable to have the facts reviewed and refunded effected by and at the direction of the responsible consular office.

See § 13.1 of this chapter concerning refunds of fees improperly exacted by consular officers who have neglected to return the same.

(b) Refunds of $5.00 or less will not be paid to the remitter unless a claim is specifically filed at the time of payment for the excess amount. An automatic refund on overpayments due to misinformation or mistakes on the part of the Department of State will be made.

PART 51—[AMENDED]

3. The authority citation for Part 51 is revised to read as follows:

Authority: 44 Stat. 887; 63 Stat. 111, as amended; 22 U.S.C 211a-218, 2651, 2658; E.O. 11295, 31 FR 10603; 3 CFR, 1966-1970 Comp. p. 507, unless otherwise noted.

4. In § 51.64 a new paragraph (e) is being added:

§ 51.64 Refunds.

* * * * *

(e) For procedures on refunds of $5.00 or less see § 22.6(b) of this title.

Date: July 17, 1987.

For the Secretary of State.

Joan M. Clark,

Assistant Secretary, Bureau of Consular Affairs.

[FR Doc. 87-18083 Filed 8-7-87; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval of an Amendment to the Ohio Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of a proposed amendment submitted by the State of Ohio as a modification to its permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of changes to Ohio's Reclamation Board of Review procedural rules. OSMRE published a notice in the Federal Register on April 10, 1987 (52 FR 11692), announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment. The public comment period ended May 11, 1987. A public hearing was not held because no one requested to testify.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations. Thus the Director is approving this amendment.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Ohio program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 Federal Register (47 FR 34688). Subsequent actions concerning the conditions of approval and program

amendments are identified at 30 CFR 935.11 and 935.15.

II. Submission of Proposed Amendment

By letter dated January 28, 1987, the Ohio Department of Natural Resources, Division of Reclamation submitted proposed amendments to the Reclamation Board of Review (RBR) rules at Ohio Administrative Code (OAC) sections 1513-3-02, 1513-3-03, 1513-3-04, 1513-3-08, 1513-3-19, and 1513-3-21. The proposed amendments were submitted to satisfy an OSMRE requirement that the standards used by the RBR to award costs and attorney's fees be as effective as Federal counterparts. The amendments were also submitted to reflect changes in statutory language of Ohio Revised Code (ORC) section 1513.02(F)(3) and to include other changes in RBR procedures.

The April 10, 1987 **Federal Register** announced receipt of the proposed amendment and invited public comment on its adequacy (52 FR 11692).

III. Summary Description of Proposed Amendment

The proposed changes include amending OAC 1513-3-02(D) (5) and (6), 1513-3-04(D)(6) and 1513-3-19(F) (1), (2), (3), and (4) to reflect changes in the statutory language of O.R.C. 1513.02(F)(3). The amendments change "an escrow account" to "a penalty fund." OAC 1513-3-03(F) is amended to include langauge prohibiting ex parte communications between the Board and parties, or representatives of parties, regarding substantive issues of a pending case.

OAC 1513-3-08(G) is amended to include language prohibiting the RBR from granting temporary relief in cases where such relief would result in the issuance of a coal mining and reclamation permit.

The amendments proposed in OAC 1513-3-21(E) (3), (4), and (5) were required by OSMRE so that the Ohio rule would be no less effective than the Federal counterpart regulations. These amendments set forth the standards which the Board will apply in determining whether an award of costs and attorneys' fees is appropriate in a case before the RBR.

IV. Public Comments

The public comment period announced in the April 10, 1987 **Federal Register** ended May 11, 1987. No comments were received. The public hearing scheduled for April 30, 1987 was not held since no person requested an opportunity to testify at the hearing.

V. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment submitted to OSMRE by the State of Ohio on January 28, 1987. All revisions are found to be no less stringent than SMCRA and no less effective than the Federal regulations.

VI. Director's Decision

Based upon the findings, the Director is approving the amendment as submitted on January 28, 1987 and is amending Part 935 of 30 CFR Chapter VII to implement this decision.

VII. Procedural Requirements

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: August 3, 1987.

Brent Walquist,

Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 937—OHIO

30 CFR Part 935 is amended as follows:

1. The authority citation for Part 937 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. Paragraph (a) of § 935.12 is removed and reserved, to read as follows:

§ 935.12 State program provisions disapproved.

* * * * *

(a) [Reserved]

3. Paragraph (cc) is added to § 935.15 to read as follows: § 935.15 Approval of regulatory program amendments.

* * * * *

(cc) The following amendments submitted to OSMRE on January 28, 1987, were approved effective August 10, 1987: Ohio Administrative Code sections 1513-3-02, 1513-3-03, 1513-3-04, 1513-3-08, 1513-3-19, and 1513-3-21.

4. Paragraph (a) of § 935.16 is removed and reserved, to read as follows:

§ 935.16 Required program amendments

* * * * *

(a) [Reserved]

[FR Doc. 87-18048 Filed 8-7-87; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-87-14]

Special Local Regulations; East River Classic, Niagara River, North Tonawanda, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the East River Classic to be held on the Niagara River. This event will be held on 13 September 1987. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations are effective from 10:00 A.M. until 1:30 P.M. on September 13, 1987.

FOR FURTHER INFORMATION CONTACT: CWO Gerald M. Trackim, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-3982.

SUPPLEMENTARY INFORMATION: On June 11, 1987 the Coast Guard published a notice of proposed rule making in the Federal Register for these regulations (52 FR 22347). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are CWO Gerald M. Trackim, project officer, Office of Search and Rescue and LCDR C.V. Mosebach, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The East River Classic will be conducted on the Niagara River on 13 September 1987. This event will have an estimated 50 power boats which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. COAST Guard Station Buffalo, NY).

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

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

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35–0914 to read as follows:

§ 100.35–0914 East River Classic—Niagara River.

(a) *Regulated area:* That portion of the east branch of the Niagara River, from the South Grand Island Bridge to an east-west line from the south entrance of the Niagara River Yacht Club, including the waters surrounding Tonawanda Island.

(b) *Special local regulations.* (1) The above area will be closed to navigation or anchorage from 10:00 a.m. (local time) until 1:30 p.m. on 13 September 1987.

(2) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Station, Buffalo, NY) and when so directed by that officer. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(3) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) Effective Dates: These regulations will become effective and terminate on 13 September 1987.

Dated: July 29, 1987.

A.M. Danielsen,

RADM, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 87–18134 Filed 8–7–87; 8:45 am]

BILLING CODE 4910-14-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1250 and 1258

Freedom of Information Act Procedures

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: This rule implements the Freedom of Information Reform Act (Pub. L. 99–570) as it relates to requests for NARA administrative records. This rule does not affect requests by the public for records created by other Federal agencies and transferred to the custody of the Archivist of the United States.

This rule also makes a minor unrelated change to the NARA fee schedule published in 36 CFR Part 1258 to remove the copyflow process as a published reproduction service. Copy flow reproductions (paper copies made from microfilm) are processed by contractors whose prices are subject to change at any time. In accordance with 36 CFR 1258.12(i), NARA will quote the price in effect at the time a copyflow reproduction is requested

EFFECTIVE DATE: The rule is effective August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION: NARA issued a notice of proposed rulemaking on April 24, 1987 [52 FR 13724]. Comments were received from two public citizens groups and one Government agency.

One commenter contended that 44 U.S.C. 2116(c), which applies to fees charged for records transferred to the Archivist's custody, does not satisfy the test specified in the Office of Management and Budget (OMB) guidelines implementing the Freedom of Information Reform Act of 1986 (Reform Act) for a qualifying statute (52 FR 10012–10020). For the following reasons, NARA rejects this contention.

First, the plain language of the Reform Act supports the NARA position that the Reform Act does not prohibit NARA from charging requesters for the cost of reproducing records transferred to NARA's custody. Section 552(a)(4)(A)(vi) of Title 5, United States Code, states that: "Nothing in this subparagraph [meaning 5 U.S.C. 552(a)(4)(A)] shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records." Breaking this provision down into its component parts, (a)(4)(A)(vi) sets forth three criteria which must be satisfied by an agency's fee statute before the Reform Act's fee and fee waiver provisions will give way: (1) The agency's fee statute must provide for the charging of fees for the reproduction of records controlled by the agency; (2) the statute must provide for the setting of the level of fees to be charged; and, (3), the statute must provide for the reproduction of "particular types of records."

Section 2116(c) of Title 44, United States Code, satisfies all three criteria. It states, in part, that:

The Archivist may charge a fee set to recover the costs for making or authenticating copies or reproductions of materials transferred to his custody. Such fee shall be fixed by the Archivist at a level which will recover, so far as practicable, all elements of such costs, and may, in the Archivist's discretion, include increments for the estimated replacement cost of equipment.

The first criterion set by the Reform Act for determining whether an agency's fee provisions supersede the Freedom of Information Act's (FOIA) fee provisions is satisfied easily by 44 U.S.C. 2116(c), which expressly states that the Archivist "* * * may charge a fee * * *." for reproducing records in his custody. The argument that 44 U.S.C. 2116(c) does not supersede the FOIA's fee and fee waiver provisions, as set forth in the Reform Act, "because it merely permits, but does not require the NARA to establish fees," misconstrues the plain language of the Reform Act. Nowhere does the Reform Act state that an agency's fee statute must require fees to be charged or collected, only that the agency's fee statute "provide" for the charging of fees.

Section 2116(c) also satisfies the other two criteria laid out in 5 U.S.C. 552(a)(4)(A)(vi). The second criterion requires that a fee statute provide for setting the level of fees to be charged. The language in 44 U.S.C. 2116(c), "[s]uch fee shall be fixed * * * at a level which will recover, so far as practicable, all elements of such costs, and may * * * include increments for the estimated replacement cost of equipment," meets this requirement. The third criterion requires that a fee statute designate particular types of records. Section 2116(c) does this by authorizing the Archivist to charge fees only for the reproduction of " * * * materials transferred to his custody."

Looking at the legislative history of 44 U.S.C. 2116(c), it is evident that the word "may" has been used as a grant of power, and not as a permissive action. Prior to 1936, the Archivist did not possess the authority even to provide requesters with copies of the records in his custody. In that year, however, Pub. L. 74–756 (49 Stat. 1821), the predecessor to the present 44 U.S.C. 2116(c), was enacted granting this authority to the Archivist; it stated, in part, that:

The Archivist * * * may make or reproduce and furnish * * * copies of any of the * * * archives or records in his custody that are not exempt from examination as confidential or protected by subsisting copyright, and may charge therefore a fee sufficient to cover the cost or expenses thereof.

This statute appears to be permissive in nature, because it uses "may" instead of "shall". However, there is no question that, if an individual had appeared at the National Archives Building in 1937, had requested copies of records in the Archivists' custody that were not exempt from examination or protected by copyright, and had paid the copying fee, the Archivist would have been required to provide copies of the records requested. For this reason, Congress' use of the word "may", both in the 1936 Act described above and in 44 U.S.C. 2116(c), must be treated as a grant of power and not of discretion.

NARA's reading of the phrase, "[t]he Archivist may charge a fee * * *," is supported by a careful reading of the rest of 44 U.S.C. 2116(c). In addition to stating that the Archivist is authorized to charge a fee for the reproduction of records transferred to his custody, this statute also states that:

Such fee shall be fixed by the Archivist at a level which will recover, so far as practicable, all elements of such costs, and may, in the Archivist's discretion, include increments for the estimated replacement cost of equipment.

If, as the commenter states, the word "may" must always be read as investing the empowered official with discretion, then Congress' use of the phrase, "in the Archivist's discretion," is superfluous. NARA does not assume this to be the case, however. It is apparent, from the plain language of 44 U.S.C. 2116, that Congress, in expressly granting to the Archivist the discretion to include certain costs in the fee charged for the reproduction of records transferred to his custody, saw a need to draw a distinction between the Archivist's discretion in this regard and his lack of discretion in deciding whether to charge a fee at all.

NARA believes that section 6b of the OMB guidelines strengthens NARA's position regarding 44 U.S.C. 2116(c). This section states, in its entirety, that:

A "statute specifically providing for setting the level of fees for particular types of records" [5 U.S.C. 552(a)(4)(A)(vi)] means any statute that specifically requires a government agency, such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set the level of fees for particular types of records, in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information. Statutes, such as the User Fee Statute, which only provide a general discussion of fees without explicitly requiring that an agency set and collect fees for particular documents do not supersede the Freedom of Information Act under section (a)(4)(A)(vi) of that statute.

NARA finds the distinction drawn by the OMB between the fee statute of the NTIS, on the one hand, and the User Fee Statute, 31 U.S.C. 9701, on the other, to be especially pertinent. The NTIS fee statute, codified at 15 U.S.C. 1153, states, in part, that:

The Secretary [of Commerce] is authorized to . . . establish . . . a schedule or schedules of reasonable fees or charges for . . . documents or other publications furnished under this chapter. It is the policy of this chapter, to the fullest extent feasible and consistent with the objectives of this chapter, that . . . the general public shall not bear the cost of publications and other services which are for the special use and benefit of private groups and individuals . . . .

Just like 44 U.S.C. 2116(c), 15 U.S.C. 1153 is a statute specifically providing for setting the level of fees for particular types of records.

Finally, NARA's conclusion that 44 U.S.C. 2116(c) supersedes the Reform Act's fee and fee waiver provisions is supported by contrasting this statute with the User Fee Statute, which states, in pertinent part, that: "The head of each agency * * * may prescribe regulations establishing the charge for a service or thing of value provided by the agency." (31 U.S.C. 9701(b)). The User Fee Statute clearly fails to satisfy the three criteria set forth in 5 U.S.C. 552(a)(4)(A)(vi) and identified above. In contrast, Congress specifically provided for setting the level of fees for particular types of records, records transferred to the Archivist's custody, in 44 U.S.C. 2116.

For all of the reasons set forth above, NARA cannot accept the commenter's contention that 44 U.S.C. 2116(c) fails to qualify as a superseding statute under the Reform Act.

Another commenter contended that the OMB Guidelines are in certain instances not supported by, or are contrary to, the legislative history of the Reform Act. The commenter suggested that the OMB Guidelines, insofar as they are incorporated into NARA's regulation, be changed. Specifically, the commenter suggested alternative definitions for "commercial use," "educational institution," and "representatives of the news media."

NARA rejects the commenter's suggested alternative definitions. Congress made it clear that each agency should develop regulations based on OMB's guidelines for a uniform schedule of fees. NARA's regulations are in conformance with OMB's guidelines on this section, and therefore are considered not only appropriate but also consistent with the requirements of the Reform Act.

The commenter also claimed that NARA's procedure in § 1250.42(a)(1) for determining fee waive eligibility is cumbersome and elaborate. We believe that the commenter misunderstood the proposed procedure whereby NARA may request clarification of a requester's fee category when the requester claims to belong to a category for which certain fees are waived, e.g., news media representative or educational institution, but provides no justification for that category. NARA does not intend to question requesters who provide clear evidence that their request falls into a particular category. We have modified § 1250.42(a)(i) to clarify when NARA will request additional information.

A Government agency suggested that NARA consider incorporating into its final rule the Department of Justice guidelines for evaluating fee waiver or reduction requests. NARA has concluded not to incorporate the Department of Justice guidelines in its final rule. The guidelines were not available to NARA during drafting of the proposed rule, and to submit a proposed change in the rule for public comment at this date would only further delay issuance of the final rule. Further, NARA has traditionally received few requests for fee waivers and anticipates no future change in this pattern of requests. Should NARA determine at a future date to incorporate additional guidelines governing the granting of fee waivers, comments from the public will be sought before issuance of a final rule.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects

36 CFR Part 1250

Freedom of information.

36 CFR Part 1258

Archives and records.

For the reasons set forth in the preamble, Charter XII of Title 36 is amended as follows:

PART 1250—PUBLIC AVAILABILITY OF NARA ADMINISTRATIVE RECORDS AND INFORMATIONAL MATERIALS

1. The authority citation for Part 1250 continues to read as follows:

Authority: 44 U.S.C. 2104(a); 5 U.S.C. 552.

2. Section 1250.12 is revised to read as follows:

§ 1250.12 Availability of records.

NARA administrative records are available to the greatest extent possible in keeping with the spirit and intent of the FOIA. Requesters should address their requests to the office designated in § 1250.54. The person making the request need not have a particular interest in the subject matter, nor provide justification for the request except to the extent necessary to determine the requester's category for fee assessment purposes as explained in § 1250.42. The FOIA requirement that records be available to the public refers only to records in existence when the request is submitted. The Act does not require an agency to compile or create information or records in response to a FOIA request.

§ 1250.38 through 1250.46 [Removed]

3. In Subpart C, § 1250.38 through 1250.46 are removed and § 1250.30 is revised to read as follows:

§ 1250.30 General.

NARA makes available for public inspection and copying the materials described in paragraph (a)(2) of the FOIA (5 U.S.C. 552(a)(2)), which are listed in § 1250.32, and an Index of those materials as described in § 1250.34, at the National Archives Building located at 7th and Pennsylvania Avenue, NW., Washington, DC. Copying services are available at fees specified in § 1250.40.

§§ 1250.50—1250.80 (Subparts D Through F)—[Redesignated as Subparts E Through G]

4. Subparts D through F, consisting of § 1250.50 through 1250.80, are redesignated as Subparts E through G. The respective section numbers in each subpart are unchanged.

5. A new Subpart D—Fees, consisting of § 1250.37 through 1250.46, is added to read as follows:

Subpart D—Fees

Sec.
1250.37 Definitions.
1250.38 Search fees.
1250.39 Review fees.
1250.40 Reproduction fees.
1250.41 Other fees.
1250.42 Fees applicable to categories of requesters.
1250.43 Prepayment of fees.
1250.44 Waiver or reduction of fees.
1250.45 Form of payment.
1250.46 Payment collection.

Subpart D—Fees

§ 1250.37 Definitions.

"Commercial-use requester" means a requester seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

"Educational-institution request" means a request from a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education which operates a program or programs or scholarly research. The request must serve the scholarly research goals of the institution or school rather than the individual goals of the requester. A request from a student in furtherance of the completion of a course of instruction does not qualify as an educational institution request.

"Freelance-journalist" means an individual who qualifies as a representative of the news media because the individual can demonstrate a solid basis for expecting publication through a news organization, even though not actually in its employ. A publication contract would be the clearest proof of a solid basis, but the individual's past publication history may also be considered in demonstrating this solid basis.

"News media representative" means a person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public.

"Non-commercial scientific institution" means an institution that is not operated on a basis that furthers the commercial, trade, or profit interests of any person or organization, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

"Other requesters" means any individual who is not a commercial-use requester, a representative of the news media, a freelance-journalist, or one associated with an educational or non-commercial scientific institution whose research activities conform to the definition above. This term does not include requests from records subjects for records about themselves filed in NARA's systems of records; such requests are handled in accordance with 36 CFR Part 1202.

§ 1250.38 Search fees.

(a) The search fee is $10 per hour or fraction thereof when clerical/administrative staff manually search for records responsive to a request, and $18 per hour or fraction thereof when NARA must use professional staff to manually search for the requested records because clerical/administrative staff would be unable to locate them. The search fee for computerized searches is the wage (plus 16 percent fringe benefits) of the computer operator per hour or fraction thereof plus the actual computer operating costs.

(b) NARA may charge for search time spent in trying to locate NARA records which are responsive to the request regardless of whether or not any responsive records are identified. NARA will not engage in line-by-line search when merely duplicating an entire document is feasible and would prove to be a less expensive and quicker method of complying with the request.

(c) When the search includes nonpersonnel expenditures to locate and identify requested information (e.g., transport or travel costs, etc.), the applicable fee is the direct cost to NARA.

(d) NARA will charge for the aggregate of all time spent in searching for documents responsive to a series of requests when NARA reasonably believes a requester or group of requesters is dividing a request into a series of requests to evade assessment of applicable fees.

§ 1250.39 Review fees.

(a) NARA will not charge review fees for time spent resolving general legal or policy issues regarding the application of exemptions.

(b) The review fee is $24 per hour or fraction thereof, for time spent in activities set forth in paragraphs (d)(1), (d)(2), and (d)(3) of this section.

(c) NARA will charge only commercial-use requesters review fees.

(d) NARA may charge for the time spent engaged in the following activities to determine "review time" subject to review fees:

(1) Time spent examining all documents that are responsive to a request to determine whether any portion of any document is exempt from mandatory disclosure regardless of whether any information is ultimately withheld.

(2) Time spent excising information and otherwise preparing records for release (except preparing the copies that will be made available to the requester).

(3) The aggregate of all time spent in reviewing documents to determine whether any portion of any document is permitted to be withheld when NARA reasonably believes that a requester or group of requesters is dividing a request into a series of requests to evade the assessment of applicable fees.

(d) A fee of $.20 per page will be charged for making working copies of pages from which information must be excised.

§ 1250.40 Reproduction fees.

(a) *Electrostatic reproductions.—(1) Prepared by NARA staff.* Paper reproductions of NARA paper records made by NARA staff will be furnished for $.20 a page.

(2) *Self-service.* At NARA facilities with self-service electrostatic copiers, requesters may make reproductions of released documents for $.10 a page.

(b) *Reproductions from electromagnetic media.* Direct costs to NARA for staff time for programming, computer operations, and printouts or magnetic tape to reproduce the requested data will be charged requesters.

(c) *Other media.* The cost for reproduction of records from or to other media will be provided upon request. NARA will charge the direct costs to NARA of providing the reproduction.

§ 1250.41 Other Fees.

(a) *Mailing costs.* Actual postage and shipping costs will be charged when the requester asks for special methods such as express mail.

(b) *Certification.* A fee of $2.00 will be charged for each certification.

(c) *Interest.* Interest charges on unpaid fees will be charged beginning on the 31st day after billing at the rate prescribed in 31 U.S.C. 3717, and will accrue from the date of the billing.

§ 1250.42 Fees applicable to categories of requesters.

(a) *NARA policy.* (1) NARA will assess fees on the basis of the category of the requester as defined in § 1250.37. The initial request should include sufficient information for NARA to determine the category of the requester. If sufficient information is not provided for NARA to make a determination, NARA will seek clarification from the requester before assigning a requester to a specific category and before beginning to process the request. If a requester disagrees with a NARA category-of-requester determination, this determination may be appealed, following the procedures set forth in § 1250.58.

(2) NARA will not assess fees otherwise chargeable if the aggregate of all applicable fees is less than $10.

(3) If NARA estimates that total applicable search and reproduction charges are likely to exceed $25, NARA will notify the requester of the estimated amount of fees, unless the requester has indicated in advance a willingness to pay fees as high as those anticipated. The requester will be offered the opportunity to confer with a NARA official with the object of reformulating the request to meet the requester's need at a lower cost.

(4) For those requests eligible for 2 hours free search time, NARA may begin charging for computerized search time once the cost of the search (including the operator time and the cost of operating the computer to process the request) equals the equivalent dollar amount of two hours of a manual search by a clerical/administrative employee.

(b) *Commercial-use requesters.* Commercial-use requesters, as defined in § 1250.37, who make requests for reasonably described records will be assessed the following fees:

(1) Search fees as set forth in § 1250.38;

(2) Review fees as set forth in § 1250.39

(3) Reproduction fees as set forth in § 1250.40; and

(4) Other fees as set forth in § 1250.41, as applicable.

(c) *Educational and non-commercial scientific institution requesters.* When NARA receives a request from a qualified educational institution or a non-commercial scientific institution requester, as defined in § 1250.37, for reasonably described records, NARA will assess:

(1) Reproduction costs as set forth in § 1250.40, except the first 100 pages or their equivalent will be provided free; and

(2) Other costs as set forth in § 1250.41, if applicable. NARA will not charge search or review fees.

(d) *Requesters who are qualified representatives of the news media or qualified freelance-journalists.* When NARA receives a request from a qualified representative of the news media or freelance-journalist, as defined

in § 1250.37, for reasonably described records, NARA will assess reproduction fees as set forth in § 1250.40, except the first 100 pages or their equivalent will be provided free. NARA will not charge search or review fees.

(e) *Requests from other requesters.* When NARA receives a request from an individual defined as "other requesters" in § 1250.37 for reasonably described records, NARA will assess:

(1) Search fees as set forth in § 1250.38 for any search time in excess of two hours of manual search or its computerized search equivalent;

(2) Reproduction fees as set forth in § 1250.40, as applicable, except the first 100 pages or their equivalent will be provided free; and

(3) Other fees as set forth in § 1250.41, if applicable.

§ 1250.43 Prepayment of fees.

(a) NARA may require prepayment of all fees when:

(1) Applicable fees are likely to exceed $250, and

(i) The requester has no history of payment;

(ii) After notifying a requester who has a history of prompt payment of FOIA fees of the estimated fees, NARA does not receive satisfactory assurances of full payment: Or

(2) A requester has previously failed to pay a fee and interest charges within 30 days of the date of billing.

(b) The amount of the prepayment will be the anticipated fees for the current request, and if applicable, any previously assessed fees and any interest which have not been received by NARA.

§ 1250.44 Waiver or reduction of fees.

(a) Any request for waiver or reduction of a fee shall be included in the initial letter requesting access to NARA records under § 1250.54. The waiver or reduction request should explain how release of the requested information is likely to benefit the public by contributing significantly to the public understanding of the operations or activities of the government, and why the information is not primarily in the commercial interest of the requester.

(b) Documents shall be furnished without a fee or at a reduced fee if NARA determines that the information is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(c) If NARA denies a request for a waiver or reduction of a fee, the requester may appeal this denial, following the procedures set forth in § 1250.58.

§ 1250.45 Form of payment.

Requesters shall pay fees by check or money order payable to: "National Archives and Records Administration" and addressed to the official named by NARA in its correspondence.

§ 1250.46 Payment collection.

As provided for in the Debt Collection Act of 1982 (Pub. L. 97-365), NARA may employ collection agencies and may disclose information concerning nonpayment of fees to consumer reporting agencies when fees have not been paid within 31 days of billing.

§ 1250.50 [Amended]

6. Section 1250.50 is amended by removing in paragraph (a) the words "Subpart E" and inserting in their place the words "Subpart F".

7. Section 1250.58(c) is revised to read as follows:

§ 1250.58 Appeal within NARA.

* * * * *

(c) The requester shall appeal in writing and include a brief statement of the reasons why NARA should release the records, or in the case of a requester category determination, why the requester should be considered to be a member of a different category, or, if an appeal from a denial of a fee reduction or waiver request, how disclosure of the information is likely to contribute significantly to public understanding of the operations or activities of government and is not a request primarily intended to benefit the commerical, trade, or profit interests of the requester. The appeal letter shall include the words "Freedom of Information Appeal" on both the face of the appeal letter and the envelope, and the requester shall enclose with the appeal letter a copy of the initial request and denial. NARA has 20 workdays after receipt of an appeal to make a determination with respect to the appeal. The 20-workday time limit begins when the Deputy Archivist receives the appeal.

* * * * *

8. Section 1250.70(a)(7) is revised to read as follows:

§ 1250.70 Categories of records exempt from disclosure under the FOIA.

(a) * * *

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings:

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

PART 1258—FEES

9. The authority citation for Part 1258 continues to read:

Authority: 44 U.S.C. 2116(c).

10. Section 1258.2(c)(7) is added to read as follows:

§ 1258.2 Applicability.

* * * * *

(c) * * *

(7) Reproductions of NARA administrative records made in response to FOIA requests under Part 1250 of this chapter. Fees for such reproductions are found in § 1250.40 of this chapter.

* * * * *

§ 1258.12 [Amended]

11. Section 1258.12 is revised by removing in paragraph (c)(3) the words "From negative (copyflow), per foot . . . $0.55".

Dated: July 29, 1987.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87-18082 Filed 8-7-87; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3245-3]

Colorado; Schedule of Compliance for Modification of Hazardous Waste Programs

July 20, 1987.

AGENCY: U.S. Environmental Protection Agency, Region VIII.

ACTION: Notice of Colorado compliance schedule to adopt program modifications.

SUMMARY: On September 22, 1986, EPA promulgated a final rule specifying deadlines for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt the necessary program modifications. EPA is today publishing a compliance schedule for Colorado to modify the State program in accordance with § 271.21(g) to adopt the Federal program modifications.

FOR FURTHER INFORMATION CONTACT: Charles L. Brinkman, Project Officer, (303) 293-1794 8HWM-WM, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within the State is granted by EPA if the Agency finds the State program: (1) Is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement [section 3006(b)], [40 U.S.C. 6226(b)]. EPA regulations for final authorization appear at 40 CFR 271.1 through 271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Colorado

Colorado recieved final authorization of its hazardous waste program on November 2, 1984. (49 FR 41036, October 19, 1984). Colorado also received final authorization to implement its hazardous waste program for the hazardous component of radioactive mixed waste on October 24, 1986, (51 FR 37729, October 24, 1986). Today EPA is publishing a compliance schedule for Colorado to modify its program to reflect the following Federal program requirements:

- Availability of Information, section 3006(f); and,
- Modifications in the Federal Program for Non-HSWA Cluster I including:

Chlorinated Aliphatic Hydrocarbon Listing—48 FR 5308
Listing Warfarin and Zinc Phosphide—49 FR 19922
Lime Stabilized Pickle Liquor Sludge—49 FR 23284
Interim Status Standards—Applicability—49 FR 46095
Corrections to Test Methods Manual—49 FR 47391
Satellite Accumulation—49 FR 49571
Redefinition of Solid Waste—50 FR 614
Interim Status Standard for Landfills—50 FR 16044

The State has agreed to modify its program according to the following schedule:

(1) Complete regulatory revision to provide Colorado authority to implement section 3006(f), August 15, 1987.

(2) Colorado expects to submit an application to EPA for authorization of the above mentioned program revisions by October 1, 1987.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: July 24, 1987.

James Scherer,
Regional Administrator.

[FR Doc. 87-18103 Filed 8-7-87; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Temp. Reg. E-88]

Special Buying Services

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation contains a reinstatement of GSA policy of accepting FEDSTRIP and MILSTRIP requisitions from domestic activities for local purchase items (acquisition advice code (AAC) L) and non-NSN items (a Federal supply group or class only rather than a national stock number).

DATES: *Effective date:* August 10, 1987.
Expiration date: February 1, 1988.
Comments due on or before: October 1, 1987.

ADDRESS: Comments should be addressed to: General Services Administration (FCI), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. Edward W. Kirk, Inventory and Requisition Management Division (703-557-7487).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-26

Government property management.

Authority: Sec. 205(c) (63 Stat. 390; 40 U.S.C. 486(c)).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

Federal Property Management Regulations

Temporary Regulation E-88

July 20, 1987.

To: Heads of Federal agencies
Subject: Special buying services

1. *Purpose.* This regulation revises the policy concerning special buying services performed by GSA.

2. *Effective date.* This regulation is effective upon publication in the Federal Register.

3. *Expiration date.* This regulation will expire on February 1, 1988, unless sooner superseded or canceled.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.*

a. GSA reduced the scope of special buying services provided to domestic activities of executive agencies (activities located within the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands) because of budget constraints. This reduction has

had an adverse effect on GSA's customers; consequently, GSA has decided to reinstate two segments of the special order program.

b. Effective April 20, 1987, GSA reestablished its policy of accepting FEDSTRIP and MILSTRIP requisitions from domestic activities for the following items, but only when advice code 2A (Item is not locally obtainable through manufacture, fabrication or procurement) is cited in card columns 65-66 of the requisition.

(1) Local purchase items (acquisition advice code (AAC) L); and

(2) Non-NSN requisitions (requisitions with a Federal Supply group or class only in the NSN field).

c. GSA will continue to reject requisitions for items which are available from Federal Supply Schedule contractors (AAC I) and terminal items (AAC Y) when received from domestic activities, even if advice code 2A or 2F (Item known to be coded "obsolete" but still required for immediate consumption) is cited.

d. GSA will continue to support the requirements of domestic activities for those items identified as direct delivery under a central contract (AAC H) and nonstock centrally procured (AAC J).

6. *Explanation of changes.* Paragraph (b) of § 101-26.102-1 is revised to read as follows:

(b) Upon request, GSA will perform the purchasing services specified in this Part 101-26; except as shown below.

(1) Requisitions for items identified as local purchase (acquisition advice code (AAC) L) will be accepted from domestic activities (activities located within the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands) which do not have procurement capability. Requisitions must cite advice code 2A to be accepted.

(2) Requisitions for non-NSN items (a Federal supply class or group only in the NSN field) will be accepted from domestic activities when advice code 2A is cited in the requisition.

(3) Requisitions for items available from Federal Supply Schedule contracts (AAC I) will not be accepted by GSA. Domestic activities are authorized to submit their requirements directly to the contractor.

7. *Effect on other directives.* This regulation supersedes the provisions of § 101-26.102-1(b).

8. *Agency comments and assistance.* Comments or inquiries concerning this regulation should be submitted to the General Services Administration (FCI), Washington, DC 20406, not later than October 1, 1987, for consideration and possible incorporation into a permanent regulation.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-18079 Filed 8-7-87; 8:45 am]

BILLING CODE 6820-24-M

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41 CFR Part 101-26

[FPMR Amdt. E-262]

Procurement of Motor Vehicles

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation changes the number of consolidated procurements made by GSA each year on behalf of agencies for sedans, station wagons, and light trucks and revises the schedules for agencies to submit orders to GSA for these types of vehicles. The regulation also established a consolidated program for the procurement of medium and heavy trucks and provides for a change in GSA's centralized leasing program. The changes in the consolidated procurement program provided in this regulation are designed to correlate the ordering of vehicles with current production practices in the industry and thereby expedite delivery to Federal agencies.

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles E. Norberg, Automotive Commodity Center (703/557-0582).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-26

Government property management.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

1. The authority citation for Part 101-26 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 101-26.5—GSA Procurement Programs

2. Section 101-26.501 is amended to revise the text identifying standard vehicles in paragraphs (a), (b), and (c), and the introductory text in paragraph (d), as follows:

§ 101-26.501 Purchase of new motor vehicles.

(a) * * *

Sedans, class IA-small, class IB-subcompact, or class II-compact; station wagons, class IB-subcompact or class II-compact vehicles, as described in Federal standard No. 122; and light trucks as defined in Federal standard Nos. 292 and 307. (Federal standards Nos. 122, 292, and 307 as used in this section mean the latest editions.) Requisitions submitted to GSA for motor vehicles shall be in conformance with the requirements of Subpart 101-38.1.

* * * * *

(b) Requisitions submitted to GSA for new passenger vehicles and light trucks shall contain a certification by the agency head or designee that the acquisition is in conformance with Pub. L. 94-163 and Executive Order 12375. The certification may be placed on the requisition or on an appropriate attachment thereto. Agency passenger vehicle requisitions omitting this certification will be processed provided that the certification is forthcoming from the requisitioning agency.

(c) Trucks shall be requisitioned in accordance with the provisions of this § 101-26.501 and the following:

(1) Light trucks in accordance with Federal standard Nos. 292 and 307; and

(2) Medium and heavy trucks in accordance with the latest editions of Federal specification Nos. KKK-T-2107, 2108, 2109, 2110, 2111, and Federal specification No. KKK-B-1579.

(d) Selection of additional systems or equipment in vehicles shall be made by the requiring agency and shall be based on the need to provide for overall safety, efficiency, economy, and suitability of the vehicle for the purposes intended pursuant to § 101-38.104-2.

* * * * *

3. Section 101-26.501-1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101-26.501-1 General.

* * * * *

(a) DOD shall submit to GSA for procurement its orders for purchase in the United States for all commercial-

type passenger motor vehicles (FSC 2310), including buses and trucks (FSC 2320) up to 11,000 pounds gross vehicle weight (GVW) except the following:

(1) Buses convertible to ambulances;

(2) Trucks convertible to ambulances;

(3) Trucks 4X4, dump, 9,000 GVW with cut-down cab; and

(4) Any commercial trucks above 11,000 pounds GVW.

(b) When it is determined by the ordering activity that requirements for passenger motor vehicles and trucks indicate the need for procurement by buying activities other than GSA, a request for waiver justifying the procurement shall be submitted in writing to the General Services Administration (FCA), Washington, DC 20406. GSA will notify agencies in writing whether a waiver has been granted. Justification may be based on the urgency of need or the fact that the vehicle has unique characteristics, such as special purpose body or equipment, requiring the agency personnel to closely supervise installation of the equipment by the contractor; e.g., when a medical van is to be equipped with Government- or contractor-supplied equipment. Requests for procurement through sources other than GSA will be handled on an individual basis provided full justification is submitted therefore.

* * * * *

4. Section 101-26.501-2 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 101-26.501-2 Consolidated purchase program.

(a) To achieve maximum benefits and economies, GSA (except as noted in § 101-26.501-1(a)), makes consolidated procurement of all motor vehicle types each year as follows:

(1) Two volume procurements of sedans and station wagons of the types covered by Federal standard No. 122, excluding family buys;

(2) Two volume procurements of the types covered by Federal standard Nos. 292 and 307, excluding family buys; and

(3) Three volume procurements of the types covered by Federal specification Nos. KKK-T-2107, 2108, 2109, 2110, 2111, and Federal specification No. KKK-B-1579.

(b) Volume consolidated purchases are made after consolidation of requirements in accordance with the date set forth in § 101-26.501-4(a). Agencies should submit their requirements for the types of vehicles covered by Federal standard Nos. 122, 292, 307, Federal specification Nos. KKK-T-2107, 2108, 2109, 2110, and Federal specification No. KKK-B-1579 that can be competitively procured, to the General Services Administration (FCA), Washington, DC 20406, in time for inclusion in the appropriate consolidated purchase as scheduled in § 101-26.501-4(a).

(c) When justified as indicated in § 101-26.501-4, requirements for sedans, station wagons, and light, medium, and heavy trucks will be consolidated and procured on a monthly basis.

* * * * *

5. Section 101-26.501-3 is amended to revise the introductory paragraph and paragraph (b) to read as follows:

§ 101-26.501-3 Submission of orders.

Orders for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisition—Delivery Order, or DD Form 448, Military Interdepartmental Purchase Request (MIPR), to the General Services Administration (FCA), Washington, DC 20406, and shall contain required FEDSTRIP data for mechanized processing. The Department of Defense shall ensure that appropriate MILSTRIP data are entered on DD Form 448.

* * * * *

(b) Requisitions for vehicles within the category of Federal standard Nos. 122, 292, or 307, but for which deviations from such standards are required, unless already waived by the Director, Automotive Commodity Center (FCA), Federal Supply Service, GSA, Washington, DC 20406, shall include with the requisition a justification supporting each deviation from the standards and shall contain a statement of the intended use of the vehicles, including a description of the terrain where the vehicles will be used. Prior approval of deviations shall be indicated on the requisitions by citing the waiver authorization number.

* * * * *

6. Section 101-26.501-4 is amended by revising paragraphs (a) and (b)(2) and removing paragraph (b)(3), as follows:

§ 101-26.501-4 Procurement time schedules.

(a) *Volume consolidated purchases.* Requisitions covering vehicle type included in Federal standard Nos. 122, 292, 307, Federal specification Nos. KKK-T-2107, 2108, 2109, 2110, 2111, and Federal specification No. KKK-B-1579 will be consolidated for volume procurement unless a statement is included justifying the need for delivery other than the delivery times indicated in this section. Requisitions containing a statement of justification will be handled on a monthly basis in accordance with this section, or on an emergency basis in accordance with § 101-26.501-4(c).

TIME SCHEDULE FOR VOLUME CONSOLIDATIONS

Vehicle Category	Consolidation Date
A. Sedans and station wagons of types covered by Federal standard No. 122.	June 1 to Nov. 15 Nov. 16 to May 31.
B. Light trucks of types covered by Federal standards Nos. 292 and 307.	June 16 to Dec. 1 Dec. 2 to June 15.
C. Medium and heavy trucks in accordance with Federal specifications Nos. KKK-T-107, 2108, 2109, 2110, 2111, and KKK-B-1579.	March 10 to Aug. 9. Aug. 10 to Dec. 15. Dec. 16 to March 9.

(b) * * *

(2) Solicitations issued in July for the consolidated purchase of vehicles will cover only the requirements of those executive agencies with requisitions required by § 101-26.501-1 to be placed with GSA. (Submission of requirements for vehicles in categories (i) and (ii), above, is mandatory to the extent provided in § 101-26.501-1.)

7. Section 101-26.501-6 is amended by revising paragraph (c) to read as follows:

§ 101-26.501-6 Forms used in connection with delivery of vehicles.

* * * * *

(c) *Instructions to Consignee Receiving New Motor Vehicles Purchased by General Services Administration (formerly GSA Form 6317).* This information is printed on the reverse of the consignee copy of the delivery order. Personnel responsible for receipt and operation of Government motor vehicles should be familiar with the instructions and information contained in the document entitled "Instructions to Consignee Receiving New Motor Vehicles Purchased by General Services Administration."

8. Section 101-26.501-8 is amended by revising the addresses of manufacturers in paragraph (a), revising paragraph (b), and removing paragraph (c) as follows:

§ 101-26.501-8 Notification of vehicle defects.

* * * * *

(a) * * *

Addresses of Manufacturers

American Motor Corp., Fleet Sales Department, 27777 Franklin Road, Southfield, MI 48304, (for Jeep, Renault, Eagle, and American Motors vehicles only).

LTV Aerospace and Defense Co., AM General Division, 701 West Chippewa Avenue, South Bend, IN 46623. (Formerly AM General of the American Motors Corporation.)

Ford Parts and Service Division, Service Engineering Office, 3000 Schaefer Road, PO Box 1904, Dearborn, MI 48131.

Director of Services, FWD Corporation, 105 East 12th Street, Clintonville, WI 54929.

Navistar International, Inc., 7927 Jones Branch Drive; Suite 400, McLean, VA 22102. (Formerly known as International Harvester Co.)

Chrysler Corporation, Product Investigations and Government Liaison, PO Box 1057, Detroit, MI 48288.

General Motors Corporation:

Chevrolet Motor Division, Service Department, Chevrolet Central Office, 30007 Van Dyke Avenue, Warren, MI 48090.

Buick Motor Division, Service Department, 902 East Hamilton Avenue, Flint, MI 48550.

Oldsmobile Motor Division, Service Department, 920 Townsend Street, Lansing, MI 48921.

Pontiac Motor Division, Service Department, One Pontiac Plaza, Pontiac, MI 48053.

GMC Truck and Bus Group, Federal Government Sales, 31 Judson Street, Pontiac, MI 48058.

Mack Trucks, Inc., 2100 Mack Blvd., PO Box M, Allentown, PA 18105–5000.

Thomas Built Buses, Inc., 1408 Courtesy Road, PO Box 1849, High Point, NC 27261.

Supervisor, Vehicle Service and Safety Programs, Volvo White Truck Corporation, PO Box D–1, Greensboro, NC 27402.

(b) When motor vehicles are manufactured by a concern other than one for which an address is shown in § 101–26.501–8(a) and the address of the manufacturer is not known, agencies shall inform GSA of the vehicle location address. In these cases, agencies shall forward the vehicle location address to the General Services Administration (FCA), Washington, DC 20406. GSA will forward the vehicle location address to the manufacturer or advise the agency concrerned.

9. Section 101–26.501–9 is revised to read as follows:

§ 101–26.501–9 Centralized motor vehicle leasing program.

GSA has a centralized leasing program to provide an additional source of motor vehicle support to all Federal agencies. This program relieves Federal agencies that use it from both the time constraints and administrative costs associated with independently entering into lease contracts. The centralized leasing program covers subcompact, compact, and midsize sedans, station wagons, and certain types of light trucks (pickups and vans). Participation in the centralized leasing program is mandatory on all executive agencies of the Federal Government (excluding the Department of Defense and the U.S. Postal Service) within the 48 contiguous States and Washington, DC. However, agencies must obtain GSA authorization to lease in accordance with § 101–39.205 prior to using these established mandatory use contracts. For further information on existing contracts, including vehicles covered, rates, and terms and conditions of the contract(s), contact General Services Administration (FCA), Washington, DC 20406.

Dated: July 16, 1987.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–18078 Filed 8–7–87; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6654

[ID–943–0704220–10; I–8856]

Public Land Order No. 6648; Idaho, Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order corrects an error which appears in the general heading and summary of Public Land Order No. 6648.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706 208–334–1597.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The title and summary in Public Land Order No. 6648 of May 28, 1987, in FR Doc. 87–12678, published on page 21035 in the issue of Thursday, June 4, 1987, are hereby corrected as follows:

The title of page 21035, which reads "Public Land Order No. 6566; Correction" is hereby corrected to read "Public Land Order No. 6586; Correction."

The summary on page 21035, line 3 which reads "Public Land Order No. 6566" is hereby corrected to read "Public Land Order No. 6586."

J. Steven Griles,

Assistant Secretary of the Interior.

[FR Doc. 87–18040 Filed 8–7–87; 8:45 am]

BILLING CODE 4310–GG–M

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43 CFR Public Land Order 6653

[NM–940–07–4220–10; NM NM 52805]

Partial Revocation of Public Land Order No. 6525; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Public Land Order No. 6525 insofar as it affects 3,275.28 acres of public land withdrawn in aid of a proposed land exchange with the Public Service Company of New Mexico. The above 3,275.28 acres will remain closed to surface entry and mining pending transfer to the Navajo Tribe, but have been and will remain open to mineral leasing.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Kay Thomas, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504–1449, 505–988–6589.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 6525, which withdrew public lands in aid of a proposed land exchange with the Public Service Company of New Mexico, is hereby revoked insofar as it affects the following described lands:

New Mexico Principal Meridian

T. 23 N., R. 12 W.,
 Sec. 31, lots 1, 2, 3, 4, E½, E½W½.
T. 23 N., R. 13 W.
 Sec. 13, NW¼, S½;
 Sec. 14;
 Sec. 15, N½NW¼;
 Secs. 23 and 24;
 Sec. 28, SW¼.

The area described aggregate 3,275.28 acres in San Juan County.

2. At 10 a.m. on August 10, 1987, the lands described below, simultaneously shall be restored and open to selection by the Navajo Tribe, pursuant to Section 11 of Public Land 93–531, 88 Stat. 1716 (25 U.S.C. 640d–10); as amended by Section 4 of Public Law 96–305, 94 Stat. 930 (25 U.S.C. 640d–10); and Section 106 of Public Law 98–603, 98 Stat. 3157 (30 U.S.C. 181).

New Mexico Principal Meridian

T. 23 N., R. 12 W.,
Sec. 31, lots 1, 2, 3, 4, E½, E½W½.
T. 23 N., R. 13 W.,
Sec. 13, NW¼, S½;
Sec. 14;
Sec. 15, N½NW¼;
Secs. 23 and 24.

The area described aggregates 3,115.28 acres in San Juan County.

3. At 10 a.m. on August 10, 1981, the lands described below, simultaneously shall be restored and opened to exchange with the Navajo Tribe pursuant to Public Law 97-287, 96 Stat. 1225.

New Mexico Principal Meridian

T. 23 N., R. 13 W.,
Sec. 28, SW¼.

The area described aggregates 160 acres in San Juan County.

J. Steven Griles,
Assistant Secretary of the Interior.
August 3, 1987.

[FR Doc. 87-18041 Filed 8-7-87; 8:45 am]

BILLING CODE 4310-FB-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172 and 173

[Docket No. HM-126D; Amdt. Nos. 171-94, 172-110, 173-203]

Bulk Packagings and Miscellaneous Amendments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations definitions for bulk packaging and nonbulk packaging, and to make other miscellaneous changes including required identification of materials in bulk packagings. This action is necessary to improve identification of hazardous materials during transportation for emergency response purposes.

EFFECTIVE DATE: These amendments are effective on February 1, 1988. However, compliance with the regulations as amended herein, is authorized as of August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, DHM-12, Standards Division, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590, (202) 366-4488.

SUPPLEMENTARY INFORMATION: On September 27, 1984, RSPA published a Notice of Proposed Rulemaking, Docket No. HM-126D; Notice No. 84-11 [49 FR 38164] which proposed several changes in Parts 171, 172, and 173 regarding odorization of liquefied petroleum gas (LPG). Also, the notice proposed five minor revisions, plus a definition and marking requirements for "bulk packaging".

In Part 171, the notice proposed that § 171.8 be amended to add definitions for "Bulk packaging", "Liquefied petroleum gas" and "Non-bulk packaging".

In Parts 172 and 173, several changes were proposed regarding LPG. Also, the Notice proposed changes regarding marking of bulk packagings. Because of the wide range of comments received, from complete support to direct opposition, RSPA has withdrawn that portion of the rulemaking concerning the definition and odorization requirements for LPG from this docket, and it will be handled under a separate docket.

Excluding the comments received pertaining to LPG, only ten commenters responded to the remaining proposed amendments. Seven commenters supported the proposal to define "bulk packaging".

Three commenters suggested the proposed "bulk packaging" definition be revised so as to make a clear distinction between packagings of 110 gallons or less and bulk packagings. RSPA agrees that this has merit, and the definition of "bulk packaging" is revised accordingly. However, RSPA has chosen 450 liters (118.9 gallons) and 400 kilograms (881 pounds) as the threshold figure for defining bulk packaging, in order to be consistent with the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). The definition of "Portable tank" has been revised accordingly. The definitions for "bulk packaging" and "non-bulk packaging" are consistent with those proposed under Docket HM-181 (52 FR 16482) published on May 5, 1987.

In § 172.326, paragraph (d)(1) is adopted essentially as proposed, except that the words "orange panels" are added after the word "placards", to permit display of identification numbers on orange panels.

No exception was taken to the proposed revision of paragraph (e) in § 172.328 to make it consistent with the special provisions in § 172.336 (c)(4) and (c)(5) for transporting several different materials under one identification number marking.

Four commenters recommended minor changes to the proposed bulk packaging marking § 172.331. These commenters took exception to the proposed marking of the identification number on each side and each end of small bulk packages such as flexible intermediate bulk containers or 500 liter cryogenic liquid dewar flasks. RSPA agrees that this proposed requirement is excessive, and the final rule is revised to require these types of packagings to be marked on two opposing sides only.

In § 172.332, paragraph (c)(1) is revised without notice to eliminate an inconsistency in the regulations by authorizing the white background of the 4-inch by 8½ inch identification number markings on placards to be outlined with a solid or dotted line border.

One commenter recommended that the proposed change in paragraph (g) of § 172.334 be included in paragraph (b) since they are very similar. RSPA agrees with this commenter and has revised paragraph (b) of § 172.334 accordingly.

The proposed amendment to paragraph (b) of § 172.336 is rewritten to clarify that the plain white square-on-point configuration is an alternative identification number display to the orange panel for those materials for which placards are not required.

One commenter requested that § 172.338 not be amended as proposed, because nothing has occurred since the present wording was adopted to justify another amendment. RSPA is revising the proposed wording to require the replacement of white square-on-point display configurations when two or more identification number displays are missing or destroyed.

No comments were received regarding the placarding of rail cars transporting an Explosive A containing a Poison A. Therefore, paragraph (e) in § 172.510 is amended as proposed.

Section 172.332 is amended for editorial purposes. In § 173.29, the section title is revised by deleting the reference to particular type packagings. Paragraph (e) is added, as proposed, except that the word "bulk" is removed.

Based on limited information available concerning size and nature of entities likely to be affected, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Also, in view of the type of changes, the RSPA has further determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures [44 FR 11034; February 26, 1979]; (3) will not

affect not-for-profit enterprises, or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is not considered necessary because the anticipated impact is minimal.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation, Labeling, marking, and placarding.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, 49 CFR Parts 171, 172 and 173 are amended as follows:

PART 171—GENERAL INFORMATION REGULATIONS, AND DEFINITIONS

1. The authority citation for Part 171 is revised to read as follows:

Authority: 49 U.S.C. 1802, 1803, 1804, and 1808; 49 CFR Part 1.

2. In § 171.8 the definitions for "Bulk packaging" and "Non-bulk packaging" are added in the appropriate alphabetic sequence and the definition of "Portable tank" is revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

"Bulk packaging" means a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment and which has: (1) An internal volume greater than 450 liters (118.9 gallons) as a receptacle for a liquid; (2) a capacity greater than 400 kilograms (881.8 pounds) as a receptacle for a solid; or (3) a water capacity greater than 1000 pounds (453.6 kilograms) as a receptacle for a gas as defined in § 173.300.

* * * * *

"Non-bulk packaging" means a packaging which has (1) an internal volume of 450 liters (118.9 gallons) or less as a receptacle for a liquid; (2) a capacity of 400 kilograms (881.8 pounds) or less as a receptacle for a solid; or (3) a water capacity of 1000 pounds (453.6 kilograms) or less as a receptacle for a gas as defined in § 173.300.

* * * * *

"Portable tank" means a bulk packaging (except a cylinder having a water capacity of 1000 pounds or less) designed primarily to be loaded onto, or on, or temporarily attached to a transport vehicle or ship and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means. It does not include a cargo tank, tank car, multi-unit tank car tank, or trailer carrying 3AX, 3AAX, or 3T cylinders.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, and 1808; 49 CFR Part 1.

4. In § 172.326, paragraph (d)(1) is added to read as follows:

§ 172.326 Portable tanks.

* * * * *

(d) * * *

(1) Each person who offers a motor carrier a portable tank for transportation in a transport vehicle or freight container shall provide the motor carrier with the required identification numbers on placards, orange panels, or the white square-on-point configuration, as appropriate, for each side and each end of the transport vehicle or freight container from which identification numbers on the portable tank are not visible.

* * * * *

5. In § 172.328, paragraph (e) is revised to read as follows:

§ 172.328 Cargo tanks.

* * * * *

(e) A cargo tank marked with the name or identification number of a hazardous material may not be used to transport any other material unless that marking:

(1) Is removed;

(2) Is changed to identify the hazardous material in the cargo tank; or

(3) Conforms with § 172.336 (c)(4) or (c)(5) of this part.

6. Section 172.331 is added to read as follows:

§ 172.331 Bulk packagings other than portable tanks, cargo tanks, tank cars and multi-unit tank car tanks.

(a) This section prescribes marking requirements for bulk packagings other than portable tanks (see § 172.326), cargo tanks (see § 172.328), tank cars and multi-unit tank car tanks (see § 172.330).

(b) No person may offer for transportation or transport a bulk packaging unless the packaging is marked as prescribed in §172.332 or § 172.336(b), as appropriate, with the identification number specified for the material in § 172.101 or § 172.102, when authorized—

(1) On two opposing sides, for a packaging of 1,000 gallons (3,785.4 liters or 133.7 cubic feet) or less capacity;

(2) On each side and each end, for a packaging of greater than 1,000 gallons (3,785.4 liters or 133.7 cubic feet) capacity.

(c) The provisions of paragraph (b) do not apply to cylinders permanently installed on a tube trailer motor vehicle if the identification numbers are displayed as prescribed on each side and each end of the motor vehiclé.

(d) Each person who offers a motor carrier a hazardous material in a bulk packaging for transportation shall provide the motor carrier with the required identification numbers on placards of plain white square-on-point display configurations, as authorized, or shall affix orange panels containing the required identification numbers to the packaging prior to or at the time the material is offered for transportation, unless the packaging is already marked with the identification number as required by this subpart.

(e) Each person who offers a bulk packaging containing a hazardous material for transportation shall affix to the packaging the required identification numbers on orange panels, square-on-point configurations or placards, as appropriate, prior to, or at the time the packaging is offered for transportation unless it is already marked with identification numbers as required by this subchapter.

(f) No person may mark a bulk packaging with the name or identification number of a hazardous material that is not in the bulk packaging.

(g) A bulk packaging that is required to be marked with the name or identification number of a hazardous material must remain marked unless it is—

(1) Reloaded with a material that requires another marking or no marking; or

(2) Cleaned and purged of all residue.

7. Section 172.332 is amended by revising paragraphs (a) and (c)(1) to read as follows:

§ 172.332 Identification number markings.

(a) *General.* When required by §§ 172.326, 172.328, 172.330, or 172.331 of this subpart, identification numbers shall be displayed on orange panels or placards as specified in this section or, when appropriate, on white square-on-

point configurations as prescribed in § 172.336(b).

* * * * *

(c) * * *

(1) The identification number shall be displayed across the center area of the placard in 3½ inch (89 mm.) black Alpine Gothic or Alternate Gothic No. 3 numerals on a white background 4 inches (10 cm.) high and approximately 8½ inches (21.5 cm.) wide and may be outlined with a solid or dotted line border.

* * * * *

8. Section 172.334 is amended by revising paragraphs (a) and (b) and adding paragraph (g) to read as follows:

§ 172.334 Identification numbers; prohibited display.

(a) No person may display an identification number on a POISON GAS, RADIOACTIVE, EXPLOSIVES A, EXPLOSIVES B, BLASTING AGENTS OR DANGEROUS placard.

(b) No person may display an identification number on a placard, orange panel or white square-on-point display configuration unless—

(1) The identification number is specified for the material in § 172.101 or § 172.102 (when authorized);

(2) The identification number is displayed on the placard, orange panel or white square-on-point configuration authorized by § 172.332 or § 172.336(b), as appropriate, and any placard used for display of the identification number corresponds to the hazard class of the material specified in § 172.504;

(3) Except as provided under § 172.336 (c)(4) or (c)(5) the package, freight container, or transport vehicle on which the number is displayed contains the hazardous material associated with that identification number in § 172.101 or § 172.102.

* * * * *

(g) No person shall add any color, number, letter, symbol, or word other than as specified in this subchapter, to any identification number marking display which is required or authorized by this subchapter.

9. In § 172.336, paragraph (b) introductory text is revised to read as follows:

§ 172.336 Identification numbers; special provisions and exceptions.

* * * * *

(b) For hazardous materials in hazard classes for which hazard warning placards are not specified (e.g., ORM-A, B, C, D, or E), identification numbers, when required, must be displayed on either orange panels (see § 172.332(b)) or on a plain white square-on-point display configuration having the same outside dimensions as a placard. In addition, for materials in hazard classes for which placards are specified and identification number displays are required, but for which identification numbers may not be displayed on the placards authorized for the material (see § 172.334(a)), identification numbers must be displayed on orange panels or on the plain white square-on-point display configuration in association with the required placards. An identification number displayed on a white square-on-point display configuration is not considered to be a placard.

* * * * *

10. Section 172.338 is revised to read as follows:

§ 172.338 Replacement of identification numbers.

If more than one of the identification number markings on placards, orange panels, or white square-on-point display configurations that are required to be displayed are lost, damaged or destroyed during transportation, the carrier shall replace all the missing or damaged identification numbers as soon as practicable. However, in such a case, the numbers may be entered by hand on the appropriate placard, orange panel or white square-on-point display configuration providing the correct identification numbers are entered legibly using an indelible marking material. When entered by hand, the identification numbers must be located in the white display area specified in § 172.332. This section does not preclude required compliance with the placarding requirements of Subpart F of this subchapter.

11. Section 172.510 is amended by adding paragraph (e) to read as follows:

§ 172.510 Special placarding provisions; Rail.

* * * * *

(e) *Chemical ammunition.* Each rail car containing Class A explosive ammunition which has the additional hazard of Poison A must be placarded EXPLOSIVES A and POISON GAS.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

12. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C 1803, 1804, 1805, 1806, 1807, and 1808; 49 CFR Part 1.

13. In § 173.29, the section title is revised and paragraph (e) is added to read as follows:

§ 173.29 Empty packagings.

* * * * *

(e) No person may offer for transportation, and no carrier may accept or transport, an empty packaging containing the residue of a hazardous material unless each opening is securely closed and free from leaks.

Issued in Washington, DC, on August 3, 1987 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 87-17933 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 70101-7001]

Pacific Coast Groundfish Fishery; Preliminary Reassessment and Request for Comments

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

ACTION: Notice of preliminary reassessment to authorize foreign fishing and request for comments.

SUMMARY: NMFS issues a preliminary reassessment of domestic annual harvest (DAH) and domestic annual processing (DAP) for Pacific whiting and announces its intent to increase DAH and the total allowable level of foreign fishing (TALFF) of Pacific whiting in the exclusive economic zone (EEZ) off Washington, Oregon, and California. The DAH would be increased by 2,250 metric tons (mt) to accommodate additional joint venture processing (JVP) needs. The TALFF would be increased by releasing the remaining 36,750 mt of the 39,000 mt reserve which is surplus to domestic needs. This action would not affect the amount of fish processed by the domestic industry, but would increase the amount harvested by the domestic industry and would provide the flexibility to allow additional allocations of Pacific whiting to foreign countries, if appropriate.

DATE: Comments must be submitted on or before August 25, 1989.

ADDRESS: Send comments to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150.

SUPPLEMENTARY INFORMATION:

Background

The implementing regulations for the Pacific Coast Groundfish Fishery Management Plan (FMP) at 50 CFR 611.70 and Part 663 state that the Secretary of Commerce (Secretary) annually specifies a numerical optimum yield (OY), DAH, DAP, JVP, TALFF, and a reserve for Pacific whiting. Regulations at § 611.70(d) (1) and (2) also establish procedures to reassess DAH, DAP, and JVP on or about July 1 each year, and to increase TALFF during the fishing year by any part of the reserve that the Secretary determines will not be harvested by U.S. fishermen.

The following table lists the 1987 fishing year initial specifications for Pacific whiting (52 FR 682, January 8, 1987) and the specification changes for DAH, JVP, and TALFF indicated by this preliminary reassessment.

SPECIFICATION CHANGES FOR FISHING YEAR JANUARY 1, 1987 THROUGH DECEMBER 31, 1987 [IN METRIC TONS]

Terms	Pacific Whiting	
	Initial specifications	Preliminary reassessment
OY	195,000	No change.
DAH	129,000	131,250
DAP	15,000	No change.
JVP	114,000	116,250
TALFF	27,000	63,750
Reserve	39,000	-0-

The initial DAP and JVP for 1987 were based on the projected needs of the U.S. industry, as surveyed by the NMFS Northwest Region in December 1986. The industry was surveyed again in June 1987 to determine whether there was any change in the domestic intent and capacity to harvest and process Pacific whiting, and U.S. catch, effort, and processing performance were projected to the end of the fishing year. The results of the June survey indicate that, although the initial DAP is adequate for the remainder of 1987, the initial JVP and DAH need to be increased by 2,250 mt to meet all domestic needs. There is no current information to indicate any biological problem with the stock or any need to reassess OY. Because only 2,250 mt of the reserve will be needed by U.S. harvesters during the remainder of 1987, the remaining 36,750 mt is available for release to TALFF.

The purpose of releasing the portion of the Pacific whiting reserve surplus to domestic needs is to provide the flexibility to allow additional allocations to foreign countries, if appropriate. There is no certainty that any or all of the additional TALFF will be allocated to foreign countries during 1987.

Classification

The preliminary reassessment of DAH and DAP and the proposed release of the Pacific whiting reserve are based upon the most recent data available. The action is taken under the authority of 50 CFR 611.70(d) (1) and (2), is in compliance with Executive Order 12291, and is covered by the regulatory flexibility analysis and environmental impact statement prepared for the authorizing regulations. The action contains no collection of information requirement for purposes of the Paperwork Reduction Act.

The public has had opportunity to comment on the preliminary reassessment of DAP, JVP, and DAH, and the proposed release of the Pacific whiting reserve at the July 1987 meeting of the Pacific Fishery Management Council held in Millbrae, California. Written public comments also will be accepted for 15 days after publication of this notice in the **Federal Register.**

(16 U.S.C. 1801 *et seq.*)

List of Subjects 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: August 5, 1987.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-18129 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustment, closure, and request for comments.

SUMMARY: NOAA announces an inseason adjustment of the commercial salmon fishery in the exclusive economic zone (EEZ) from Cape Blanco, Oregon, to Point Delgada, California. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the NMFS Southwest Region, the Pacific Fishery Management Council (Council), the Oregon Department of Fish and Wildlife (ODFW), and the California Department of Fish and Game (CDFG), that the commercial fishery quota of 130,000 chinook salmon prior to September 8 for the area should be reduced to 119,200 chinook salmon because of the number of Klamath River fall chinook caught in all ocean areas south of Cape Falcon. The quota modification will result in the closure of the commercial season from Sisters Rocks to Mack Arch. The adjustment is necessary to conform to the preseason announcement of 1987 management measures. This action is intended to ensure conservation of chinook salmon.

DATES: This notice and closure of the commercial fishery from Sisters Rocks to Mach Arch are effective on August 5, 1987. Comments on this closure will be received until August 20, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, MNFS, 300 S. Ferry Street, Terminal Island, CA 90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150, or E. Charles Fullerton at 213-514-6196.

SUPPLEMENTARY INFORMATION: Management measures for 1987 were effective on May 1, 1987 (52 FR 17264, May 6, 1987). The 1987 commercial season for all salmon species from Cape Blanco to Point Delgada was established as June 1 through the earliest of September 7 or the attainment of the chinook or coho quota. The preseason chinook quota of 115,000 fish was reduced inseason to 113,300 fish (52 FR 24296, June 30, 1987), to account for a harvest in excess of the quota by an earlier commercial fishery from Sisters Rocks to Chetco Point. The general area fishery was closed on June 25, 1987, when it was projected that the revised quota had been met (52 FR 24297, June 30, 1987).

Two additional subarea commercial fisheries are scheduled in the zone. The first, from Sisters Rocks to Mack Arch, is scheduled to begin the later of August 22 or upon attainment of the general area chinook quota. The second, from Trinidad Head to Punta Gorda, is scheduled to begin on September 8.

With respect to commercial seasons from Cape Blanco to Point Delgada prior to September 8, the preseason regulations also provide that—

"* * * Troll quotas may be adjusted on or about July 29 depending upon the number of chinook needed to complete the recreational season and the projected harvest of Klamath River fall chinook in all ocean areas south of Cape Falcon * * *. In addition, any quota

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overage or underage from the chinook harvest in the earlier troll fisheries from Cape Blanco to Point Delgada will be subtracted from or added to the quota for the all-except-coho fishery from Sisters Rocks to Mack Arch." (Table 1, footnote i)

Representatives of the Salmon Plan Development Team (Team) conferred on July 29, 1987. The Team projected that the recreational fishery in the zone would harvest 45,600 chinook during the season. In addition, using the Klamath River impact model, the Team projected that 163,700 fall chinook of Klamath River origin would be caught in all ocean fisheries south of Cape Falcon even with no more commercial fishing between Cape Blanco and Point Delgada. The Team recommended an adjusted commercial quota in the zone prior to September 8 of 119,200 chinook salmon based on inseason factors including projected ocean impacts on Klamath River fall chinook.

Based on the best available information, 109,747 chinook were landed in the general area commercial fishery which ended on June 25, 1987, and 9,400 chinook were landed in a subarea commercial fishery from Sisters Rocks to Chetco Point which ended on May 14, totaling 119,147 chinook salmon in both fisheries.

For the above reasons, NOAA issues this notice to adjust the commercial quota from Cape Blanco to Point Delgada prior to September 8 from 130,000 to 119,200 chinook. Since the adjusted commercial quota in the zone prior to September 8 has been met, the subarea commercial fishery from Sisters Rocks to Mack Arch beginning the later of August 22 or attainment of the general area chinook quota is closed. This notice does not apply to other fisheries which may be operating in this or other areas.

The Regional Director consulted with the Chairman of the Council and representatives of ODFW and CDFG regarding the adjustment to the commercial chinook quota in the zone prior to September 8, and the closure of the subarea commercial fishery from Sisters Rocks to Mack Arch which was to begin the later of August 22 or upon attainment of the general area chinook quota. The ODFW and CDFG representatives confirmed that Oregon and California will manage the commercial fishery in State waters adjacent to this area of the EEZ in conformance with this Federal action.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C 1801 *et seq.*)

Dated: August 5, 1987.

William E. Evans,

Assistant Administrator For Fisheries National Marine Fisheries Service.

[FR Doc. 87-18126 Filed 8-5-87; 4:49 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 153
Monday, August 10, 1987

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 994

[Docket No. EMO-1]

Egg Marketing Order; Establishment of Programs Relating to Research, Consumer Education, and Advertising

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum results: Termination of rulemaking proceeding.

SUMMARY: This document announces that the requisite number of producers voting in a referendum and the volume of production represented by producers voting failed to approve an egg marketing order. Therefore, the proposed order published in the **Federal Register** on April 6, 1987, will not become effective and this proceeding is terminated.

DATE: The termination is effective August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, Poultry Division, AMS, USDA, Washington, DC 20250. Phone (202) 382-8132.

SUPPLEMENTARY INFORMATION: On April 6, 1987, a decision on a proposed egg marketing agreement and referendum order were published in the **Federal Register** (52 FR 10984). The proposed marketing order provided for a 22-member national board consisting of producers and handlers and one public research, consumer education, advertising, promotion, and product development for eggs, spent fowl, and products thereof. The proposed order also provided for mandatory nonrefundable assessments levied on egg handlers. The first year assessment rate for research and promotion programs would have been set at one-half cent on each dozen eggs first handled. Subsequent maximum annual one-fourth cent increases up to a 1-cent maximum rate would have been allowed following appropriate rulemaking procedures and approval of the Secretary.

The proposed order was authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and was formulated on the record of a public hearing held during the months of January, February, and March 1986. The Notice of Hearing was published in the **Federal Register** on December 165, 1985 (50 FR 51344). The Recommended Decision was published in the **Federal Register** on October 24, 1986 (51 FR 37822).

In accordance with the procedure for conduct of referenda (7 CFR 900.700-707), producers who owned 10,000 or more laying hens during the 3-month representative period December 1, 1986-February 28, 1987, and who were engaged in commercial egg production during that period and at the time of voting were eligible to vote. The referendum was conducted by mailed ballot May 25-June 19, 1987.

Results of the referendum show that of the 1,106 valid ballots cast, 471 producers voted in favor (43 percent) and 635 producers (57 percent) voted against the proposed order. In addition, 53 percent of the production represented by these voting producers favored the order and 47 percent were opposed. As provided in section 8(c)(8) of the Agricultural Marketing Agreement Act of 1937, the proposed order would become effective only if approved by at least two-thirds of the producers voting or by voting producers representing at least two-thirds of the volume of production by all voters. Since neither of these requirements was met, the proposed order shall not become effective and the proceeding is terminated.

This action does not affect the Egg Research and Promotion Order (7 CFR 1250.301 through 1250.363) authorized by and issued pursuant to the Egg Research and Consumer Information Act (7 U.S.C. 2701 *et seq.*). That order continues in effect.

Signed at Washington, DC on August 5, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Service.

[FR Doc. 87-18124 Filed 8-7-87; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1736

Electric Standards and Specifications

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to revise 7 CFR Chapter XVII, REA Regulations, Part 1736, Electric Standards and Specifications, by revising REA Bulletin 50-70(U-1), REA Specification for 15 kV and 25kV Primary Underground Power Cable. This bulletin contains the REA material specifications for underground power cable. The primary changes being proposed consist of: (1) Removing high molecular weight polyethylene as an acceptable insulating material; (2) increasing the minimum average insulation layer thickness from 175 to 220 mils for 15 kilovolt (kV) cable and from 260 to 320 mils for 25 kV cable; (3) requiring the application of an electrically insulating outer jacket on all such cables; and (4) modifying the present requirement to test each reel of cable produced to detect excessive partial discharge.

DATE: Public comments must be received by REA no later than October 9, 1987.

ADDRESS: Submit written comments to the Director, Electric Staff Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250-1500.

FOR FURTHER INFORMATION CONTACT: Mr. James Dedman, Electrical Engineer, Electric Staff Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone (202) 382-9091. A copy of the proposed revised bulletin and the Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option are available from Mr. Dedman, at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.), the Rural Electrification Administration proposes to revise 7 CFR Chapter XVII, REA Regulations, Part 1736, Electric Standards and Specifications, by revising REA Bulletin 50-70(U-1), REA

Specification for 15 kV and 25 kV Primary Underground Power Cable.

This action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies; or (3) result in significant adverse effects on competition, employment investment or productivity, and, therefore, has been determined to be "not major."

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

This proposed regulation contains no information or recordkeeping requirements which require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.). This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Background

The Rural Electrification Administration (REA) maintains a system of bulletins that contain construction standards and specifications for materials and equipment which are applicable to electric system facilities constructed by REA electric borrowers in accordance with the REA loan contract. These standards and specifications contain standard construction units and material items and equipment units commonly used in REA electric and telephone borrowers' systems.

REA Bulletin 50-70(U-1), REA specification for 15 kV and 25 kV Primary Underground Power Cable, contains REA's requirements relative to the purchase of underground power cables by REA electric borrowers. The requirements in Bulletin 50-70(U-1) are minimum requirements and are based primarily on specifications of national standards setting organizations such as the Association of Edison Illuminating Companies (AEIC) and the Insulated Cable Engineers Association (ICEA). Bulletin 50-70(U-1) was last revised in 1984.

In recent years, cables purchased and installed by many REA electric borrowers have failed long before the end of the anticipated life of the cables. Since these prematurely failed cables were designed and manufactured in accordance with Bulletin 50-70(U-1) and the referenced national standards, REA has concluded that Bulletin 50-70(U-1) should be revised to exceed some requirements of the national standards.

The primary cause of underground cable failures is the formation and growth of electrochemical "trees" in the insulation layer of the cables. The tree-like voids usually form at impurities or voids in the insulation material. The growth of the trees is accelerated by moisture in the insulation layer and high voltage stress.

High molecular weight polyethylene (HMW) insulated cables have performed very poorly regarding failure due to trees. All manufacturers of underground cable have ceased production of HMW cables. In 1986, REA removed HMW cables from REA Bulletin 43-5, List of Materials Acceptable for Use on Systems of REA Electrification Borrowers. REA believes that the removal of HMW from Bulletin 50-70(U-1) is certainly justified. This proposed action does not pertain to cables insulated with high molecular polyethylene with tree retardant additives (HMW-TR).

The voltage stress (measured in volts per mil) on the insulation of underground cable is a function of the voltage present and the thickness of the insulation layer (in mils). Increasing the thickness of the insulation wall will decrease the voltage stress and, therefore, retard the growth of trees in the insulation layer. Presently, Bulletin 50-70(U-1) requries the average thickness of the insulation layer to be at least as large as 175 mils for cables rated at 15 kilovolts (kV) and 260 mils for 25 kV cables. This proposed action would raise the minimum wall thickness to 220 mils for 15 kV cables and 320 mils for 25 kV.

The cables used on systems of REA electric borrowers are almost always buried in direct contact with the earth. They are, therefore, in constant contact with moisture, a major contributing factor in the growth of trees. Bulletin 50-70(U-1) presently allows, but does not require, the application of an electrically insulating jacket as an outer protective covering on underground cables. The jacket provides mechanical protection which decreases the likelihood of moisture contact with the insulation layer within. REA believes that the use of jackets on underground cables should be required in Bulletin 50-70(U-1).

The national standards and Bulletin 50-70(U-1) require manufacturers of underground cable to test each reel of cable to detect excessive partial discharge which could damage the insulation layer. REA proposes to revise its requirement to allow an optional procedure under which a manufacturer could demonstrate to REA's satisfaction that the manufacturer can produce cables without excessive partial discharge and that its insulation material is sufficiently resistant to damage caused by excessive partial discharge, should it occur. Demonstration of resistance to partial discharge would be required on each manufacturing run of cable produced by the manufacturer.

The other changes in this proposed action are primarily clerical in nature.

List of Subjects in 7 CFR Part 1736

Electric utilities, Engineering standards, Incorporation by reference.

In view of the above, REA hereby proposes to amend 7 CFR Part 1736.

PART 1736—ELECTRIC STANDARDS AND SPECIFICATIONS

1. The authority citation for Part 1736 continues to read as follows:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

§ 1736.97 [Amended]

2. In § 1736.97, paragraph (b) is amended by revising the entry for Bulletin 50-70(U-1) to read as follows:

§ 1736.97 Incorporation by reference of electric standards and specifications.

* * * * *

(b) *List of Bulletins.*

* * * * *

Bulletin 50-70(U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable (Effective Date)

* * * * *

Dated: August 3, 1987.

Harold V. Hunter,

Administrator.

[FR Doc. 87-18058 Filed 8-7-87; 8:45 am]

BILLING CODE 3410-15-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: Section 121.5(a) of Title 13 of the Code of Federal Regulations, the Small Business Administration's (SBA's) Rules and Regulations, provides that the time of size for small business set-asides is the date upon which the business submits its bid or offer. In contrast, section 4(g) of Small Business Innovation Research (SBIR) Policy Directive No. 65 01 2, published in the **Federal Register** on January 8, 1986, 50 FR 917, 919, provides that the time at which the size of a concern is determined for either Phase I or Phase II SBIR awards is the date of award. This proposed rule would amend § 121.5(a) of SBA's regulations to make time of size for Phase I and Phase II SBIR awards consistent with the SBIR Policy Directive.

DATES: Comments should be submitted on or before September 9, 1987.

ADDRESS: Written comments should be addressed to Richard J. Shane, Assistant Administrator for Innovation, Research & Technology, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Richard J. Shane (202) 653-7875.

SUPPLEMENTARY INFORMATION: Section 121.5(a) of Title 13 of the Code of Federal Regulations, the Small Business Administration's (SBA's) Rules and Regulations, provides that the size of a concern (including its affiliates) for Government procurements is determined as of the date of its written self-certification as a small business as part of the concern's submission of a bid or offer. There has been some confusion as to whether this general provision was intended to apply to SBA's Small Business Innovation Research (SBIR) Program. Such an application would severely limit the pool of potential SBIR applicants, disrupting the SBIR program and the accompanying benefits which flow to the Federal Government. This proposed rule, if promulgated in final form, would adopt the provision regarding the time at which size is determined set forth in the SBIR Policy Directive.

Public Law 97-219, 96 Stat. 221, amended section 9(j) of the Small Business Act, 15 U.S.C. 631, *et sec.*, to establish a government-wide SBIR Program. The law directed SBA to develop, issue and maintain a SBIR Program policy directive to be used as guidance by the participating Federal agencies. SBA published the current SBIR Policy Directive, SBIR Policy Directive No. 65 01 2, in the **Federal Register** on January 8, 1985, 50 FR 917. Policy Directive 65 01 2 represents the second major revision to the original SBIR policy directive. From the outset, the SBIR policy directives have set the date of award as the date at which size is determined for both Phase I and Phase II SBIR awards. The reason for this policy is that many SBIR proposals are made by individuals who are affiliated with a corporation or a university at the time the proposal is submitted. The date of award time of size determination permits these individuals to submit proposals while still being employed by a corporation or university. The SBIR award date is then generally 2-3 months after notification is made that a proposal has been selected for award. An individual would have this time to divest himself/herself from the corporation or university to be an eligible small entity at the date of award. Only ongoing, active businesses could submit proposals if the time at which size was determined was the date that the SBIR proposal was submitted.

SBA's size regulations were never changed to take into account the time of size policy developed for the SBIR Program. The program has operated under the assumption that the Policy Directive was controlling. The inconsistency between this policy and the size regulations has only recently come to the SBA's attention. Consistent with the Administrative Procedure Act, SBA is providing a 30-day comment period to conform the rule and the Policy Directive as expeditiously as possible.

SBA certifies that this rule, if adopted in final form, would not constitute a major rule for the purpose of Executive Order 12291. It should have no economic effect and should not result in an increase in costs or prices since businesses and Federal agencies participating in the SBIR Program have been utilizing the time of size policy set forth in the SBIR Policy Directive since the Program's inception. This rule would merely conform SBA's size regulations to this policy.

SBA certifies that, if finalized, this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et *seq.* As previously stated, this rule will merely conform SBA's size regulations to take into account the SBIR time of size policy for Phase I and Phase II SBIR awards which has been followed since the Program's inception. Small entities seeking to participate in the SBIR Program will follow the same procedures which were being followed before the effective date of this rule. This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 121

Small business, Small business size standards.

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

PART 121—[AMENDED]

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

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

2. Section 121.5 is proposed to be amended by revising paragraph (a) to read as follows:

§ 121.5 Small business for Government procurement.

(a) A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. Except for Phase I and Phase II awards under SBA's Small Business Innovation Research (SBIR) Program, the size status of a concern (including its affiliates) is determined as of the date of its written self-certification as a small business as part of the concern's submission of a bid or offer. For purposes of Phase I and Phase II awards under SBA's SBIR Program, the size status of a concern is determined as of the date of the award. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of an SBA inquiry is not considered an SBA size determination.

* * * * *

Date: August 4, 1987.

James Abdnor,

Administrator.

[FR Doc. 8-7-18100 Filed 87-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-93-AD]

Airworthiness Directives: British Aerospace Model H.S. 748 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to all Model H.S. 748 series airplanes with large freight doors, which would require inspection and adjustment, repair, or replacement, if necessary, of the large freight door locking mechanism components, and installation of a placard to warn crew members to depressurize the cabin before opening the large freight door. This proposal is prompted by a report of an incident where, due to an unserviceable pressure lock system, the large freight door was opened in flight while the cabin was pressurized. The door detached from the fuselage, causing severe damage. This condition, if not corrected, could lead to loss of the large freight door and damage to the airplane.

DATES: Comments must be received no later than September 9, 1987.

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. 87-NM-93-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Donald L. Kurle, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1946. 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 data 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 data 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.87-NM-93-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain BAe Model H.S. 748 series airplanes. An incident occurred where the large freight door was opened in flight while the cabin was pressurized. The door detached from the fuselage, causing severe damage. Opening the door was made possible by an unserviceable pressure lock system. This condition, if not corrected, could lead to loss of the large freight door and severe damage to the airplane.

British Aerospace (BAe) issued Service Bulletin 52/129, dated May 1986, which describes procedures to check the correct operation of the large freight door locking mechanism, and to check the pressure lock assemblies for any damage, distortion, and/or wear. The CAA has classified this service bulletin as mandatory.

British Aerospace issued a second H.S. 748 Service Bulletin 11/7, dated December 1, 1986, which describes installation of a placard to indicate that the airplane must be depressurized before opening its large freight door. The CAA has also classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulatorys and the applicable bilateral airworthiness agreements.

Since this condition is likely to exist or develop or airplanes of this same type design registered in the United States, an AD is proposed which would require inspection and adjustment, repair, or replacement, if necessary, of the large freight door locking mechanism components, and installation of a placard warning crew members to depressurize the cabin before opening the large freight door, in accordance with the service bulletins previously mentioned.

It is estimated that 3 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 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 on U.S. operators is estimated to be $720.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not a 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 ($240). 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.

2. By adding the following new airworthiness directive:

BRITISH AEROSPACE: Applies to all Model H.S. 748 series airplanes with a large freight door, certificated in ay category.

Compliance required within the next 90 days after the effective date of this AD, unless previously accomplished.

To prevent inadvertent opening of the freight door in flight, accomplish the following:

A. Inspect the large freight door shoot bolt lever, barometric (pressure lock) lever, bellows assembly, dry air cartridge and microswitches for damage, distortion and/or wear in accordance with British Aerospace Service Bulletin 52/129, dated May 1986. If any damage, distortion and/or wear is discovered as a result of the inspection required by this paragraph, prior to further flight, adjust, repair, or replace the affected components, in accordance with British Aerospace Service Bulletin 52/129, dated May 1986.

B. Insall a placard to indicate that the aircraft must be depressurized before opening its large freight door, in accordance with British Aerospace Service Bulletin 11/7, dated December 1, 1986.

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

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information 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 July 31, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-18116 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 861-0050]

Tarrant County Medical Society; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Tarrant County Medical Society, of Fort Worth, Texas, to agree not to restrict, regulate or declare unethical any doctor's truthful advertising. Respondent also would be required to agree to provide, for 10 years, written notice to any doctor whose advertising it intends to challenge, and allow that doctor a reasonable opportunity to respond.

DATE: Comments must be received on or before October 9, 1987.

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

FOR FURTHER INFORMATION CONTACT: FTC/S-3115, Elizabeth Gee, Washington, DC. 20580. (202)326-2756.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission act, 38 State. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Doctors, Physicians, Trade practices.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent Tarrant County Medical Society (TCMS), and it now appearing that TCMS is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between TCMS and its duly authorized officer and/or its attorney, and counsel for the Federal Trade Commission that:

1. TCMS is a corporation organized, existing, and doing usiness under and by virtue of the laws of the State of Texas, with its mailing address at 3855 Tulsa Way, Fort Worth, Texas 76107.

2. TCMS admits all of the jurisdictional allegations set forth in the draft of complaint here attached.

3. TCMS waives:

(a) Any further procedural steps;

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

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

(d) Any claim under the equal Access to Justice Act.

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

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

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

may be used to vary or contradict the terms of the order.

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

Order

I

For purposes of this order, the following definitions shall apply:

A. "TCMS" means respondent Tarrant County Medical Society, its officers, councils, committees, boards, representatives, agents, employees, successors, and assigns; and

B. "Adverse action" means the revocation or suspension of, or refusal to grant, membership in TCMS, or the disciplining or penalizing of any physician.

II

It is ordered, that TCMS, directly or indirectly, or through any device, shall forthwith cease and desist from:

Restricting, regulating, declaring unethical, impeding, interfering with, or advising against the advertising or publishing by any person or organization of information about the prices, terms, or conditions of sale of physicians' services, or of any information about physicians' services, facilities, or equipment which are offered for sale or made available by physicians or by any organization with which physicians are affiliated, including but not limited to restricting or attempting to restrict the content, format, size, or frequency of any such advertisements or publications.

Nothing contained in this order shall prohibit TCMS from formulating, adopting, disseminating to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, including unsubstantiated representations, that TCMS reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

III

It is further ordered, that TCMS shall cease and desist from:

A. For a period of ten (10) years after service of this order, taking any adverse action against a person alleged to have violated any rule, policy, guideline, or ethical standard relating to physician advertising without first providing such person with written notice of the allegations against such person and without providing such person a reasonable opportunity to respond. The notice required by this part shall, at a minimum, clearly specify the rule, policy, guideline, or ethical standard alleged to have been violated, the specific conduct that is alleged to have violated the rule, policy, guideline, or ethical standard, and the reasons the conduct is alleged to have violated the rule, policy, guideline, or ethical standard; and

B. Failing to maintain for five (5) years following the taking of any action referred to in this part of the order, in a separate file segregated by the name of any person against whom such action was taken, any document that embodies, discusses, mentions, refers, or relates to the action taken and any allegation relating to it.

IV

It is further ordered, that TCMS shall:

A. For a period of five (5) years, commencing on the date this order is served, provide each applicant for membership in TCMS with a copy of this order at the time the applicant applies for membership;

B. Within sixty (60) days after service of this order, publish a copy of the complaint and this order in the *Physician*, or in any successor publication, with the same prominence as regularly published feature articles;

C. Within fifteen (15) days after service of this order, remove from TCMS' documents entitled "Board of Censors Agenda for Meeting with Provisional Members" and "Board of Censors Meeting with Applicants for Membership," and any other existing ethical or policy statement or guideline of TCMS, any provision, interpretation or statement which is inconsistent with Part II of this order, and within sixty (60) days after service of this order, publish, in the manner described in Part IV.B. of this order, a copy of the revised versions of such statements, guidelines, or interpretations to each of its members;

D. Within sixty (60) days after service of this order, send to the Southwest Bell Telephone Company supervisor in charge of professional advertising a copy of this order and accompanying complaint;

E. Within ninety (90) days after service of this order, and at any time the Commission, by written notice, may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which TCMS has complied with this order; and

F. For a period of five (5) years after service of this order, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Parts II and III of this order, including but not limited to any advice or interpretation rendered with respect to advertising involving any physician.

V

It is further ordered, that TCMS shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution or reorganization resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this order.

Tarrant County Medical Society—Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from the Tarrant County Medical Society ("Medical Society") located in Ft. Worth, Texas. The agreement would settle charges by the Commission that the proposed respondent violated Section 5 of the Federal Trade Commission Act by combining or conspiring to interfere with competition among physicians in Tarrant County by restricting its members from disseminating information to consumers through truthful, non-deceptive advertising.

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

The Complaint

A complaint has been prepared for issuance by the Commission along with the proposed order. It alleges that in furtherance of this conspiracy, the Medical Society, through its Board of Censors, has restricted the amount, duration and size of advertising announcements that its members place in newspapers. The complaint alleges, for example, that the Medical Society distributed restrictions to members that limit advertising announcements in

newspapers to 10 days and one-column inch in size.

In addition, the complaint alleges that through its Board of Censors, the Medical Society has attempted to restrict the number of telephone directory listings its members place and the size of their print.

The complaint further alleges that the purposes or effects of the combination or conspiracy have been to restrain trade unreasonably and injure consumers in the following ways among others:

A. Vigorous competition among physicians is impeded;

B. Physicians are being deterred from advertising truthful information in the media about their prices, services, and qualifications; and

C. Consumers are being deprived of receiving truthful information about physicians' prices, services, and qualifications.

The Proposed Consent Order

Part I of the proposed consent order contains definitions of terms used in the order.

Parts II of the order prohibits the Medical Society from interfering with, restricting, or advising against the advertising or publishing of information about the prices, terms, or conditions of sale of physicians' services by physicians or organizations with which physicians are affiliated, including restricting the content, format, size, or frequency of such advertisements or publications.

Part II of the order also contains a proviso stating that the order does not prohibit the Medical Society from formulating or enforcing reasonable ethical guidelines with respect to advertising by the Society's members that is false or deceptive under Section 5 of the Federal Trade Commission Act.

Part III.A. of the proposed consent order requires that the Medical Society, before taking any adverse action against any person alleged to have violated any Medical Society policy or ethical standard relating to physician advertising, provide that person with written notice of the allegation and a reasonable opportunity to respond. Part III.B. requires the Medical Society to maintain a file relating to any such adverse action for 5 years.

Part IV.A. requires, for a period of five years, that the Medical Society give each applicant for membership a copy of the order. Part IV.B. requires, within 60 days after service of the order, that the Medical Society publish a copy of the complaint and order in its publication, the *Physician*.

Part IV.C. of the proposed consent order requires the Medical Society, within 15 days after service of the order, to remove from Medical Society documents entitled "Board of Censors Agenda for Meeting with Provisional Members" and "Board of Censors Meeting with Applicants for Membership", and any other ethical or policy statement or guideline of the Medical Society, any provisions that are inconsistent with Part II of the order.

Part IV.D. requires the Medical Society to send a copy of the order and accompanying complaint to the Southwest Bell Telephone Company supervisor in charge of professional advertising.

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

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 87-18064 Filed 8-7-87; 8:45 am]

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16 CFR Part 13

[Docket No. 9187]

Jerome Milton, Inc., et al; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Chicago, Illinois maker of Shane toothpaste from claiming that Shane cures or alleviates the symptoms of canker or cold sores, or reduces tooth sensitivity, unless it has at least one well-controlled clinical test to substantiate the claim. Respondent would be required to have at least two well-controlled clinical tests to substantiate claims that the product reduces plaque more effectively than any other oral hygiene product or that it cures or alleviates gingivitis or periodontitis.

DATE: Comments must be received on or before October 9, 1987.

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

FOR FURTHER INFORMATION CONTACT: FTC/S-4002, William Haynes, Washington, DC 20580. (202) 326-3088.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Toothpaste, Trade practices.

In the matter of Jerome Milton, Inc., a corporation, and Jerome Milton Schulman, individually and as an officer of Jerome Milton, Inc.

Agreement Containing Consent Order To Cease and Desist

The agreement herein, by and between Jerome Milton, Inc., a corporation, by its duly authorized officer, and Jerome Milton Schulman, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, and their attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Jerome Milton, Inc., is an Illinois corporation with its office and principal place of business located at 4350 West Ohio Street, Chicago, Illinois 60624.

Respondent Jerome Milton Schulman is an officer of Jerome Milton, Inc. He formulates, directs, and controls the policies, acts and practices of Jerome Milton, Inc., and his address is the same as that of Jerome Milton, Inc.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of Sections 5 and 12 of the Federal Trade Commission Act, and have filed answers to said complaint denying said charges.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

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

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

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

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint issued by the Commission on September 25, 1984.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

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

9. By acceptance of this agreement and the issuance of the proposed complaint and order contemplated thereby, the Federal Trade Commission takes no position on the legality of the marketing of Shane toothpaste, or of any other food, drug, or device covered by the proposed order, under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 *et seq.*

Order

I

It is ordered that respondents Jerome Milton, Inc., a corporation, its successors and assigns, and its officers, and Jerome Milton Schulman, individually and as an officer of Jerome Milton, Inc., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of Shane toothpaste, any other toothpaste, or any other oral hygiene product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any such product:

a. Cures or alleviates the symptoms of canker sores (recurrent aphthous stomatitis) or cold sores (herpes simplex type I lesions);

b. Reduces the sensitivity of teeth to hot and cold substances;

c. Is useful in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

d. Reduces plaque more effectively than any other toothpaste or oral hygiene product; or

e. Cures or alleviates the gum problems associated with gingivitis or periodontitis, unless at the time of making such representation, respondents possess and rely upon competent and reliable evidence that substantiates the representation.

For purposes of paragraphs a and b, above, "competent and reliable evidence" shall include at least one adequate and well-controlled, double-blind clinical study that conforms to accepted designs and protocols and is conducted by persons qualified by training and experience to do so;

For purposes of paragraphs d and e, above, "competent and reliable evidence" shall include at least two adequate and well-controlled, double-blind clinical studies that conform to accepted designs and protocols and are conducted by different persons, independently of each other, with such persons being qualified by training and experience to conduct such studies;

For purposes of paragraph c, above, "competent and reliable evdience" shall mean test(s), analysis(es), research project(s), or study(ies) in which the evidence has been objectively obtained and evaluated by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate results;

Provided, however, with respect to any representation covered by this Part of the Order other than a claim concerning superior or comparative efficacy, if the Food and Drug Administration promulgates any standard, or any advisory review panel appointed by the Food and Drug Administration has issued a monograph, establishing that such representation is true, then in lieu of the above studies the respondents may rely on the Food and Drug Administration's standard or the panel's monograph as long as it has not been superseded and remains in effect.

II

It is further ordered that respondents, their successors and assigns, for at least three (3) years after the date of the last dissemination of the representation, shall maintain and upon request make available to the staff of the Commission for inspection and copying copies of, and dissemination schedules for, every advertisement containing any representation(s) about oral hygiene product(s), copies of all evidence relied on for such representation(s), and copies of any document(s) in the possession or control of respondents, their successors and assigns contradicting or qualifying any such representation.

III

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

IV

It is further ordered that the individual respondent named herein shall promptly notify the Commission of the discontinuance of his present business or employment and, for a period of five (5) years after the date of service of this

Order, shall promptly notify the Commission of each affiliation with a new business or employment, each such notice to include the individual respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment.

V

It is further ordered that the respondents shall distribute a copy of this Order to each of the corporate respondent's operating divisions and to all present and future employees, agents, or representatives engaged in the preparation and placement of advertising and that the corporate respondent shall secure from each such person a signed statement acknowledging receipt of the Order.

VI

It is further ordered that the respondents shall, within sixty (60) days after the date of service of this Order, file with the Commission a report in writing, signed by the individual respondent and a responsible officer for the corporate respondent, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Jerome Milton, Inc., and Jerome Milton Schulman.

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

The complaint alleges that the respondents Jerome Milton, Inc., and Jerome Milton Schulman, an officer of the company, claimed in their advertising for Shane toothpaste that:

• The use of Shane will cure or alleviate the symptoms of canker sores, cold sores, and the gum problems associated with gingivitis and periodontitis;

• Shane is superior to other toothpastes in reducing or eliminating plaque;

• The use of Shane will lessen the sensitivity of the teeth to hot and cold substances.

According to the complaint, the respondents represented that they had a reasonable basis for these claims, when, it fact, they did not. Therefore, the respondents' claims were deceptive.

The consent order contains provisions designed to remedy the advertising violations charged. Thus Part I of the proposed order requires the respondents to have competent and reliable evidence before claiming that Shane or any other oral hygiene product.

a. Cures or alleviates the symptoms of canker or cold sores;

b. Reduces tooth sensitivity;

c. Is useful in the diagnosis, cure, mitigation, treatment, or prevention of disease;

d. Reduces plaque more effectively than any other oral hygiene product; or

e. Cures or alleviates gingivitis or periodontitis.

The order defines the term "competent and reliable evidence" differently for these claims. More specifically, for purposes of claims a and b the term is defined as including at least one well-controlled clinical trial; for purposes of claim c as meaning test(s) or study(ies) using generally accepted professional procedures; and for purposes of claims d and e as including at least two well-controlled clinical trials.

The proposed order also contains standard compliance provisions, including a three (3) year recordkeeping provision requiring retention of materials that support future ad claims, as well as those that contradict or qualify claims.

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

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 87-18070 Filed 8-7-87; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 429

Rule on Cooling-Off Period for Door-to-Door Sales

AGENCY: Federal Trade Commission.

ACTION: Proposed rule and exemptions.

SUMMARY: Federal Trade Commission ("Commission") is proposing non-substantive amendments to § 429.1 (a) and (b) of the Rule on a Cooling-Off Period for Door-to-Door Sales (16 CFR Part 429). The Rule presently requires that the seller of goods or services covered by the Rule provide the buyer with a completed Notice of Cancellation form in duplicate, which shall be attached to the contract or receipt and easily detachable, with certain mandatory language. The proposed amendments would permit more flexible alternative methods of compliance with the Notice requirements of the Rule, without lessening consumer rights. The Commission is also proposing exempting sales of automobiles and products such as arts and crafts which are offered for sale at temporary places of business, from the Rule's application pursuant to section 18(g) of the Federal Trade Commission Act.

All interested persons are hereby given notice of the opportunity to submit written data, views and and arguments concerning these proposals.

DATES: Comments will be accepted on or before October 9, 1987.

ADDRESS: Send comments to Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, DC 20580. Submissions should be marked "Cooling-Off Rule—Amendment" and "Cooling-Off Rule—Exemptions".

FOR FURTHER INFORMATION CONTACT: Lewis Franke, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, Phone 202-326-3009.

SUPPLEMENTARY INFORMATION: The Rule on a Cooling-Off Period for Door-to-Door Sales was promulgated by the Commission on October 26, 1972 (37 FR 22933 (1972)). The Rule makes it an unfair or deceptive act or practice for the seller of consumer goods or services with a purchase price of $25.00 or more, who sells away from its place of business, to fail to furnish to the buyer certain information including the buyer's right to cancel the sale within three business days from the date of the transaction and to give the buyer a full refund of any downpayment upon the buyer's cancellation.

On March 3, 1983 the Commission published a notice in the **Federal Register** (48 FR 9032-4 (1983)), soliciting public comments on two 1981 Commission-sponsored studies. The purpose of this notice was to determine whether based upon the studies or other information provided in the comments consideration should be given to modifying the requirements of the Rule as they apply to all segments of industry. Thirteen organizations, consisting of trade associations, companies, and county consumer affairs offices, submitted comments.

Questions were posed on, (1) modifying the Rule to permit simplifying the contract and Notice form required by the Rule, (2) excluding "money back guarantees" and party sales from the Rule's coverage, (3) limiting coverage of the Rule, for example, by raising the $25.00 exempted amount, (4) broadening coverage of the Rule to include, for example, telephone solicitations, (5) whether companies are complying with the Rule and (6) cancellation rates.

Several comments were favorable to the idea of simplifying the Notice form by incorporating it into the contract or receipt. There was also some support for exempting unconditional "money back guarantees". There was no support for exempting party sales from the Rule's coverage and no consensus on raising the exempted amount above $25.00.[1] There was support though for broadening the Rule to cover telephone solicitations because certain businesses have switched from selling via door-to-door sales to telephone solicitations. Little meaningful information was received in response to questions on compliance with the Rule and cancellation rates.

Based on the comments received by the Commission and the two 1981 studies, the Commission is of the opinion that of the modifications proposed, permitting more flexible methods of complying with the Rule's Notice is most likely to yield a net improvement in the application of the Rule.

Simplification of Notice Requirements

The duplicate Notice requirement is necessary to insure that the consumer is able to retain one Notice which contains his/her cancellation rights and obligations under the Rule and to use the other Notice to cancel the transaction should the consumer decide to do so. However, these objectives can be satisfactorily met without some of the rigidities of the present Notice requirements.

The Commission therefore proposes two non-substantive amendments that do not affect the substantive rights of consumers and sellers.

First, the Commission proposes that sellers be afforded the opportunity to select the method of providing the Notices to buyers. In place of the requirement that each seller furnish a completed form in duplicate "which shall be attached to the contract or receipt and easily detachable," a seller would be in compliance with the duplicate Notice requirement as long as the seller furnishes the buyer with duplicate Notices, one of which the buyer can retain for reference and another for mailing to cancel the transaction.

This would permit, for example, the use of a contract or receipt with the reverse side containing one "Notice of Cancellation" and an attached "Notice" to be used by the buyer should the buyer decide to cancel. Another alternative method of complying with the duplicate Notice requirement would be for the seller to give the buyer two copies of the contract or receipt with both having the Notice on the reverse side of the contract or receipt.

However, regardless of the method used, the seller must insure that in the event of cancellation the buyer is able to retain a complete copy of the contract. For example, in the case of a two-page contract the seller is not permitted to place the required duplicate Notice on the contract in such a way that when the buyer returns one of the Notices, a portion of the contract is removed as well. To preclude this type of situation, as well as other similar situations, the Commission is proposing that the Rule specify that irrespective of the location of the two Notices, the buyer must be able to retain one complete copy of the contract or receipt in the event of cancellation. This is consistent with the Commission's intent when it promulgated the Rule in 1972 (37 FR 22933, 22949 (1972)).

Regardless of the method selected by the seller to satisfy the duplicate Notice provision of the Rule, the buyer must know where to find the copies of the Notice if the disclosure and retention aspects of the Rule are to be effective. Thus for those sellers who do not attach both copies of the Notice to the contract or receipt, the last sentence of the summary notice required by paragraph (a) of the Rule must be appropriately altered by the seller so as to include sufficiently specific information to enable the consumer to easily locate the copies. Of course, if both copies of the Notice are attached to the contract, no change in the current summary notice would be required.

The Commission believes that this proposed simplification satisfies our original purpose in adopting these notice provisions. As in the current Rule, the proposed simplification continues to insure that the buyer will receive two easily-located copies of the Notice and remain fully informed of his/her rights. Further, the proposed simplification continues to insure that in the event of cancellation the buyer must be able to retain a complete copy of the contract or receipt. However, by providing the seller with increased flexibility in complying with the duplicate Notice provisions of the Rule, the Commission expects that the policy objectives of those provisions will be attained at a lower cost (including paperwork-related costs) to the seller and ultimately to the consumer.

Second, the Commission proposes giving sellers the option to shorten the Notice by eliminating the sections that are inapplicable to the particular transaction. Much of the mandatory language in the Notice is not applicable to many direct sales. Many of these sales do not involve property traded-in, negotiable instruments, or property being delivered prior to the expiration of the three day cooling-off period. If adopted this proposal would further reduce paperwork-related costs incurred by sellers in complying with the Rule. Shortening the Notice would also benefit the consumer. Fewer sections in the Notice should increase the likelihood of the consumer's reading and understanding key provisions of all documents involved. Elimination of inapplicable language could be accomplished by inserting the words "where applicable" in the paragraph preceding the verbatim statement set forth in the required Notice.

Exemption for Sellers of Certain Products at Temporary Locations

Public Auto Auction Inc. requested the Commission to exempt the company from the requirements of the Cooling-Off Rule on March 4, 1986.[2] The petitioner states that it believes that sales of used cars by various dealers at central but temporary locations would not constitute sales at a "place of business" of the dealers and therefore would subject those transactions to the Rule.[3] As a basis for its petition, Public

[1] The Commission is denying the requests of five parties, made in October 1986, for an increase in the exempted dollar amount to at least $50. That Walker Research Inc. study indicated that by far the most frequently cited source of Rule-induced costs stems from the paperwork burden associated with the Notice of Cancellation forms. The Commission today is proposing an optional method of complying with the Notice provision of the Rule, which if adopted would substantially reduce these paperwork-related costs. Any additional cost savings from raising the exempted dollar amount do not appear sufficient to justify the expenditure of resources in a full rulemaking proceeding.

[2] Letter dated February 28, 1986, with Participation Agreement, Supplemented by letter dated June 25, 1986.

[3] The rule applies to transactions with a purchase price of $25 or more made at a place other than the seller's "place of business." 16 CFR 429.1 and Note 1(a). A place of business is defined under Note 1 (d) of the Rule as a "main or permanent branch office or local address of a seller."

alleges that subjecting these sales to the Rule's requirements is unfair to the sellers because it would result in economic hardship to them.

Section 18(g) (1) of the Federal Trade Commission Act provides that:

Any person to whom a rule under subsection (a) (1) (B) of this section applies may petition the Commission for an exemption from such rule.

The information supplied by Public Auto Auction indicates that cars are sold directly to interested buyers by the dealers and that each dealer supplies licensed sales personnel for this purpose.[4] Public sponsors the auction but does not act as a dealer.[5]

On the basis of the information submitted it appears that Public is not a seller within the meaning of the Rule and therefore it lacks the requisite standing under section 18(g) (1) to petition the Commission. The Commission therefore denies the petition.

Under section 18 (g) (2) however, the Commission may on its own motion exempt classes of persons. Section 18(g) (2) provides in part that:

If, on its own motion or on the basis of a petition * * * the Commission finds that the application of a [trade regulation] rule to any person or class of persons is not necessary to prevent the unfair or deceptive act or practice to which the rule relates, the Commission may exempt such person or class from all or part of such rule.

The Commission has reason to believe that sales of autos at public auctions by established companies and arts and crafts at fairs which are sales made at temporary places of business should be exempted from the Rule's coverage because the application of the Rule to these sellers may "not be necessary to prevent the unfair or deceptive practices to which the rule relates."

The Rule was promulgated by the Commission due to five problems associated with sales made away from the seller's principal place of business. These problems are: (1) Deception by the seller in getting inside the door; (2) high pressure sales tactics; (3) misrepresentation as to the quality, price or characteristics of the product; (4) payment of high price for low quality merchandise; and (5) the nuisance created by the uninvited visit of the salesperson to the home (37 FR 22937–22940 (1972)

Although the Rule is primarily directed toward door-to-door sales, the Commission also expressed concern in promulgating the Rule, with the practices of itinerant salesmen who solicit customers at restaurants, shops and other places and with the possibility that salespeople would attempt to evade the Rule's application by luring the consumer outside his/her home by subterfuge. The Commission therefore broadened the definition of a "door-to-door" sale to include those sales made away from the seller's place of business. The Commission, in the Rule's Statement of Basis and Purpose, quoted favorably a comment noting "that a limitation in the [comparable] New York statute restricted its applicability to sales in the home and that this had resulted in the invasion by salesmen of factories, shops, and other places." 37 FR 22947. The Commission also stated:

The need for such a provision is fairly obvious as restriction of the effect of the rule to contracts signed in the home would lead to all sorts of subterfuges to get the consumer out of his home to sign.

Id. at n.126.

Clearly then the Rule was intended to apply to sales made at locations other than the buyer's home. A literal reading of the definition of "door to door" sale would include a host of away from home transactions not contemplated by the Commission when it issued the Rule. Included are the sales which are the subject of the petition and sales of arts and crafts at fairs. Two circumstances surrounding transactions at a public car auction and at arts and crafts fairs do not appear to engender the concerns expressed by the Commission in adopting the Rule. First, in patronizing these temporary business locations, consumers are likely well aware of the purpose of the sellers in establishing these temporarily locations, viz., to sell cars or arts and crafts. Second, the degree to which a consumer feels free to decline to listen to a sales pitch and to refuse to purchase the product appears to be no less than if the consumer had instead patronized the seller's permanent business location. For these transactions, the existence of both of these circumstances indicate the absence of the equivalent of a deceptive "door-opener" and subterfuge; the absence of the kind of high-pressure sales tactics characterizing in-home sales, which may result in a purchase simply to convince the sales agent to cease using the tactics; and the absence of the nuisance aspects of in-home sales that the Rule sought to remedy. The extent of successful price and quality misrepresentation that may accompany in-home sales is unlikely to occur in these transactions because the consumer can peruse the wares of different vendors at the auction or the fair as well as vendors at permanent business locations. Thus, it does not appear, nor does the Commission have any evidence, that the underlying reasons for the Rule apply to these types of transactions. The Commission is therefore staying application of the Rule to sellers of automobiles at temporary places of business and sellers of arts and crafts at fairs pending the outcome of this proceeding.

In determining whether to exempt sellers of the above-stated products at temporary places of business, the Commission seeks comments and data on all relevant issues, including the following:

(1) Whether, and to what extent, any of the unfair or deceptive acts and practices the Rule is designed to prevent have been committed by the sellers; (2) whether and to what extent, there would be a realistic potential for the occurrence of such abuses after an exemption were granted; (3) whether there are identifiable factors, such as the circumstances in which these transactions occur, which sufficiently differentiate these sellers from others covered by the Rule to explain the absence, if that is the case, of significant past abuses which the Rule is designed to remedy, and to make it unlikely that the person or class would engage in such abuses in the future; (4) whether these or other special circumstances or characteristics would minimize the risk of abuse, mitigate its impact, or otherwise make applicability of the Rule unnecessary; and (5) if an exemption is warranted, (a) the proper definition of the class of persons sharing the characteristics that make application(s) of the Rule unnecessary; (b) whether the exemption, if granted, should be limited to those sellers having permanent places of business; (c) whether and to what extent these sellers suffer economic harm by complying with the Rule?

Written comments will be accepted for a period of 60 days and may be filed in person or mailed to the Secretary, Federal Trade Commission, 6th & Pennsylvania Avenue, NW., Washington, DC 20580. Comments should be identified as "Cooling-Off Rule-Amendments" or "Cooling-Off Rule Exemptions" depending on which proposal the comments relate.

List of Subjects in 16 CFR Part 429

Trade practices.

For the reasons set forth in the preamble, the Commission proposes to amend 16 CFR Part 429 as follows:

PART 429—[AMENDED]

1. The authority citation for Part 429 continues to read as follows:

Authority: 15 U.S.C. 41–58.

[4] Letter dated February 28, 1986, page 2.

[5] "Participation Agreement", page 1.

2. In § 429.1 the following text would be added to the end of paragraph (a) and the introductory text of paragraph (b) would be revised to read as follows:

§ 429.1 The Rule.

* * * * *

(a) * * *

(The seller may select the method of providing the buyer with the duplicate notice of cancellation form set forth in paragraph (b) of this section, *Provided however,* that in the event of cancellation the buyer must be able to retain a complete copy of the contract or receipt. Furthermore, if both forms are not attached to the contract or receipt, the seller is required to alter the last sentence in the statement above to conform to the actual location of the forms)

(b) Fail to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall (where applicable) contain in ten point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract.

* * * * *

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 87-18071 Filed 8-7-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 41 and 42

[SD-210]

Visas; Documentation of Immigrants and Nonimmigrants, Under the Immigration and Nationality Act, as Amended

AGENCY: Department of State.

ACTION: Notice of Proposed rulemaking.

SUMMARY: This proposed rulemaking would implement numerous amendments to the Immigration and Nationality Act which were enacted by the 99th Congress. The changes would include: The elimination of the submission of duplicate immigrant visa documentation; the elimination of the fingerprinting requirement; the establishment of new nonimmigrant visa classifications and immigrant visa categories and their corresponding visa symbols; the extension of derivative foreign state chargeability to the alien spouse and/or child following to join the principal alien in certain cases; and the modification of certain grounds of ineligibility. The proposed changes would improve visa issuance processing and would affect certain nonimmigrant and immigrant visa applicants as discussed in the supplementary information. These changes are required by statute.

DATE: Comments must be received on or before September 11, 1987.

ADDRESS: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Washington, DC 20520 (202) 663-1204.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel or Guida Evans-Magher, Legislation and Regulations Division, Visa Services, Washington, DC 20520 (202) 663-1204; 663-1206.

SUPPLEMENTARY INFORMATION:

Summary of Changes

The "Immigration and Nationality Act Amendments of 1986" removes the requirement of fingerprinting visa applicants; eliminates the requirement that all documentation for immigrant visas be submitted in duplicate thus limiting to one the number of copies of documents which must be submitted in support of an immigrant visa and abolishing the retention of duplicate immigrant visas; provides for an alien spouse or child, who is following to join the principal alien, to derive the foreign state chargeability of the principal alien; and repeals the provisions of section 212(a)(24) of the Immigration and Nationality Act, as amended, which had become obsolete with passage of time and changes in international travel. Section 25(a) of the Act of September 26, 1961, and sections (1) and (2) of the Act of October 24, 1962 are also repealed.

Section 2(a) of the Immigration Marriage Fraud Amendments adds section 216 to the Immigration and Nationality Act to provide conditional permanent resident status for certain alien spouses and sons and daughters. To conform with those amendments § 42.12 to Title 22, Part 42, is being amended by adding new classification symbols to identify issuance of visas to certain alien spouses of U.S. citizens or lawful permanent resident aliens who are subject to the provisions of section 216. Section 6 of the act provides new language which permanently bars an alien from receiving a visa if such alien has been found ineligible under section 212(a)(19) of the INA on the basis of fraud or misrepresentation which occurred before, on, or after November 10, 1986, the date of enactment of Pub. L. 99-639. The amendments broaden the grounds of ineligibility under the provisions of section 212(a)(19) to apply not only to the processing of a visa or the seeking of entry into the United States, but also to the procuring of any other benefit under the INA in cases where fraud or willful misrepresentation of a material fact has been used at any time to obtain such benefits.

Section 301 of the "Immigration Reform and Control Act of 1986" adds new language to section 101(a)(15)(H)(ii) of the Immigration and Nationality Act which establishes a separate classification (H-2A) for temporary agricultural workers in order to provide a legal method for agricultural employers to import certain needed foreign temporary workers. Section 41.12 to Title 22, Part 41 is amended to reflect the changes in visa classification symbols necessitated by the language in section 301 of this act. Section 312 adds section 101(a)(27)(I) to the INA which grants special immigrant status to certain officers and employees of international organizations and their immediate family members. The special immigrant status is available to four classes of aliens and requires that they meet the designated time periods of status, residence, and physical presence before the date of application and that they apply for special status within defined time frames. Because the provisions of section 312 directly affect the list of classification symbols contained in § 42.12 to Title 22, this proposed rule amends that section to reflect the new symbols.

"The Omnibus Drug Enforcement, Education, and Control Act of 1986" amends the INA to broaden the scope of the provisions of section 212(a)(23) to encompass all drugs listed by the Drug Enforcement Administration (21 CFR Chapter II) as controlled substances. The new provisions apply to aliens convicted before, on, or after October 27, 1986, the date on which the law was enacted, and who enter the United States after the date of enactment of Pub. L. 99-570.

Background Information

Pub. L. 99-653, "The Immigration and Nationality Act Amendments of 1986" was signed into law on November 14, 1986. This act is also known as the "Consular Efficiency bill" in that it provides for improved consular procedures and eliminates certain provisions in the Immigration and Nationality Act which have become obsolete. Section 4 of the act amends the provisions of section 202(b) of the INA to extend the privilege of alternate foreign state chargeability to a spouse or

child who is following to join a principal alien thus further preventing separation of those family members who might follow to join the spouse or parent in the United States at a later date.

Section 5(a) removes the requirement under section 221(a) of the INA that a consular officer must be in possession of a duplicate copy of the original immigrant visa as well as create and maintain a file of duplicate copies. Section 5(b) of the act amends section 221(b) of the INA to repeal the fingerprinting requirement of all visa applicants. The amendment eliminates unnecessary administrative procedures and waste of resources.

Paragraph (a) of section 6 of the act removes the requirement under paragraph (b) of section 222 of the INA that an immigrant visa applicant must submit duplicate copies of the visa application and its supporting documents. The procedural amendments to the INA provided by this section and section 5(a) of the act eliminate significant workload from the immigrant visa process and provide for a more efficient consular operation. Section 7(a) of the act repeals section 212(a)(24) of the INA. Section 11 repeals section 25(a) of the Act of September 26, 1961, and sections (1) and (2) of the Act of October 24, 1962. These sections have become obsolete or have been superseded by other changes to the INA.

Pub. L. 99–639, "Immigration Marriage Fraud Amendments of 1986" was signed into law on November 10, 1986.

Pursuant to the provisions of section 2(a) of the Marriage Fraud Act, new symbols are being added to the listing of classification symbols provided in Title 22, Part 42 § 42.12 of the Code of Federal Regulations. The "conditional" symbols identify those aliens whose marriages were entered into less than two years prior to the date of visa issuance and who are potentially subject to the conditional provisions of section 2(a) of this act.

The Marriage Fraud Act also provides that any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure, or has sought to procure or has procured a visa, other documentation or entry into the United States or other benefit provided under Pub. L. 99–639, will be permanently ineligible to receive a visa under the provisions of section 212(a)(19) of the INA. Prior to this amendment, a finding of ineligibility based on material misrepresentation in the processing of a visa or other documentation would permanently bar an alien from obtaining a visa. A finding of ineligibility based on material misrepresentation in seeking entry into the United States, however, would constitute only a temporary bar, thus allowing for visa issuance even though the alien previously had been found excludable. By replacing the language "seeks to enter" with "entry" section 6 of Pub. L. 99–639 renders an alien permanently ineligible under both findings of ineligibility. The term "other benefits" is intended to refer to any immigration benefit or entitlement provided for in the Immigration and Nationality Act, including, for example, adjustment of status.

Pub. L. 99–603, "Immigration Reform and Control Act of 1986", also known as the Simpson-Rodino Act, was signed into law on November 6, 1986. The amendment by section 301 of this act to section 101(a) (15) (H)(ii) of the INA provides for a new nonimmigrant classification of aliens coming to the United States to perform temporary or seasonal agricultural labor or services. The H–2A temporary worker classification enables agricultural employers or representatives of agricultural employers to recruit and process for admission to the U.S. certain needed agricultural workers. An amendment to reflect procedural changes to Title 22, Part 41 §41.110 was published in an earlier issue of the **Federal Register**. This rule amends § 41.12 to add a new subclass of nonimmigrant temporary workers—H–2A—and to redesignate the current H–2 classification for other temporary workers as H–2B. The symbol for aliens whose labor certifications were filed prior to June 1, 1987 will continue to be the current H–2 symbol. Aliens whose labor certifications are filed on or after June 1, 1987 will be classified as temporary workers under the new H–2A or H–2B symbols.

The addition of section 101(a)(27)(I) to the Immigration and Nationality Act by section 312 of this act provides for new classes of special immigrants. These special immigrantes are subdivided into three groups of potential eligible aliens who, while maintaining status as nonimmigrants under the provisions of section 101(a)(15)(G) of the INA, (1) have resided and been physically present in the United States for required periods of time preceding the application for the special immigrant provisions and (2) who apply for an immigrant visa or adjustment of status within defined time frames applicable to their group. All eligible applicants classifiable under section 101(a)(27(I)(i)—unmarried sons or daughters of an officer or employee of an international organizations—, section 101(a)(27)(I)(ii)—surviving spouse of an officer or employee of an international organization—, and section 101(a)(27)(I)(iii)—retired officer or employee of an international organization, must also meet the applicable criteria listed in (1) and (2) above.

The fourth group of potential eligible aliens classifiable under section 101(a)(27)(I)(iv) are the spouses of retired officers or employees accorded special immigrant status under section 101(a)(27)(I)(iii) who are accompanying or following to join such retired officers or employees. In addition to the new classification symbols for the special classes of immigrants, section 312 of this act also provides for a new nonimmigrant classification (N) under section 101(a)(15) of the INA. This proposed rule amends the related regulations in Title 22, Part 41, 41.12, and Part 42, 42.12, Code of Federal Regulations to reflect the classification symbols for the new classes of aliens.

Pub. L. 99–570 "Omnibus Drug Enforcement, Education, and Control Act of 1986", also known as the Anti-Drug Abuse Act of 1986, was signed into law on October 10, 1986. Section 675 of the act amends the provisions of section 212(a)(23) of the INA to make an alien convicted of a violation of, or conspiracy to violate any law or regulations . . . . relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802), ineligible to receive a visa. The scope of section 212(a)(23) is expanded in that it now applies to all substances listed in the controlled substances list of Schedules I through V to 21 CFR, Chapter II, rather than to specifically enumerated drugs or narcotics in section 212(a)(23) itself.

Furthermore, the provisions of section 212(a)(23) of now apply to convictions for any violation relating to any such controlled substances rather than a conviction for an activity specifically listed in the statute (8 U.S.C. 1101 et. seq.).

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

22 CFR Part 41

Aliens, Ineligible classes, Nonimmigrants, Visas.

22 CFR Part 42

Aliens, Immigrants, Ineligible classes Visas, Accordingly, the Department proposes to amend Title 22, Chapter I, Parts 41 and 42 as follows:

PART 41—DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for Part 41 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174; 8 U.S.C. 1104; 109(b)(1), Pub. L. 95–105, 91 Stat. 847.

2. Section 41.12 is amended by inserting H–2A and H–2B symbols between the H–1 and H–3 classification symbols, and inserting N–8 and N–9 symbols after the "M–2" classification symbol information and before the "Nato" classification symbols as follows:

§ 41.12 Classification symbols.

* * * * *

Class	Citation	Symbol to be inserted in visa
* * * *	* * *	
Temporary worker performing agricultural services unavailable in the United States	101(a)(15)(H)(ii)(a); 100 Stat. 3411	H–2A
Temporary worker performing other services unavailable in the United States	101(a)(15)(H)(ii)(b); 100 Stat. 3411	H–2B
* * * *	* * *	
The parent of an alien child classified SK–3 under section 101(a)(27)(I)(i)	101(a)(15)(N); 100 Stat. 3359	N–8
The child of parent classified N–8 of of aliens classified SK–1; SK–2; SK–4 under section 101(a)(27)(I)(ii), (iii), or (iv).	101(a)(15)(N); 100 Stat. 3359	N–9
* * * *	* * *	

3. In § 41.91, paragraph (a)(19) (i) is revised and (a)(19)(iii) is removed, (a)(23) is revised and (a)(24) is removed and reserved as follows:

§ 41.91 Aliens ineligible to receive visas.

(a) * * *

(19) *Fraud and misrepresentation.* (i) Any alien who, by fraud or willfully misrepresentating a material fact, seeks to procure, or has sought to procure, or has procured a visa, other documentation, or entry into the United States or other benefit provided under the Act shall be ineligible under section 212(a)(19); provided, that the provisions of this paragraph are not applicable if the fraud or misrepresentation was committed by an alien at the time the alien sought entry into a country other than the United States or obtained travel documents as a bona fide refugee and the refugee was in fear of being repatriated to a former homeland if the facts were disclosed in connection with an application for a visa to enter the United States; provided further, that the fraud or misrepresentation was not committed by such refugee for the purpose of evading the quota or numerical restrictions of the U.S. immigration laws, or investigations of the alien's record at the place of former residence or elsewhere in connection with an application for a visa.

* * * * *

(23) *Controlled Substance Violations.* An alien shall be ineligible to receive a nonimmigrant visa under the provisions of section 212(a)(23) of the Act, as amended, as a result of a conviction for a violation of, or for conspiracy to violate any law or regulation relating to a controlled substance, as defined in the Controlled Substances Act, (21 U.S.C. 802), which occurred before, on, or after October 27, 1986.

* * * * *

4. In § 41.116, paragraphs (b)(1) and (2) are removed, and paragraph (b)(3) is redesignated as paragraph (b) as follows:

§ 41.116 Registration and Fingerprinting.

* * * * *

(b) *Fingerprinting.* An alien may be required by the consular officer, * * *

* * * * *

PART 42—DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for Part 42 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), Pub. L. 95–105, 91 Stat. 847.

2. In § 42.12, paragraph (a) is removed; paragraph (b) is amended by adding new immigrant visa classification symbols after the symbol "SJ–2" at the end of the list, and is redesignated as paragraph (a); paragraphs (c) and (d) are redesignated as paragraphs (b) and (c) and are revised to read as indicated below.

§ 42.12 Classification symbols.

A visa issued to an immigrant alien within one of the classes described in this section shall bear a symbol to show the classification of the alien.

(a) The following symbols shall be used in cases of aliens who are special immigrants:

Class	Section of the law	Symbol to be inserted in visa
* * * *	* * *	
Retired officer or employee classified G–4 under section 101(a)(15)(G)(iv)	101(a)(27)(I)(iii); 100 Stat. 3434	SK–1
Spouse of retired officer or employee classified SK–1	101(a) (27)(I)(iv); 100 Stat. 3434	SK–2
Unmarried son or daughter of a present or former officer or employee classified G–1 under section 101(a)(15)(G)(i).	101(a) (27)(I)(i) 100 Stat. 3434	SK–3
A spouse classified G–4 or N–9 who is the survivor of a deceased officer or employee classified G–4 under section 101(a)(15)(G)(iv).	101(a) (27)(I)(ii); 100 Stat. 3434	SK–4

(b) The following symbols shall be used in cases of aliens who qualify as immediate relatives:

Class	Section of the law	Symbol to be inserted in visa
Spouse of U.S. citizen	201(b)	IR–1
Spouse of U.S. citizen (conditional status)	201(b); 216(a), 100 Stat. 3537	CR–1
Child of U.S. citizens	201(b)	IR–2
Child of U.S. citizens (conditional status)	201(b); 216(a), 100 Stat. 3537	CR–2

Class	Section of the law	Symbol to be inserted in visa
Orphan adopted abroad by U.S. citizen	201(b)	IR-3
Orphan to be adopted by U.S. citizen	201(b)	IR-4
Parent of U.S. citizen	201(b)	IR-5

(c) The following symbols shall be used in cases of immigrants who are subject to the numerical restrictions specified in section 201(a) of the Act:

Class	Section of the law	Symbol to be inserted in visa
First preference: Unmarried son or daughter of U.S. citizen	203(a)(1)	P1-1
First preference: Child of alien classified P1-1	203(a)(8)	P1-2
Second preference: Spouse of alien resident	203(a)(2)	P2-1
Second preference: Spouse of alien resident (conditional status)	203(a)(2); 216(a), 100 Stat. 3537	C2-1
Second preference: Unmarried son or daughter of alien resident	203(a)(2)	P2-2
Second preference: Unmarried son or daughter of alien resident (conditional status)	203(a)(2); 216(a), 100 Stat. 3537	C2-2
Second preference: Child of alien classified P2-1 or P2-2	203(a)(8)	P2-3
Second preference: Child of alien classified C-1 or C-2 (conditional status)	203(a)(8); 216(a), 100 Stat. 3537	C2-3
Third preference: Professional or highly skilled immigrant	203(a)(3)	P3-1
Third preference: Spouse of alien classified P3-1	203(a)(8)	P3-2
Third preference: Child of alien classified P3-1	203(a)(8)	P3-3
Fourth preference: Married son or daughter of U.S. citizen	203(a)(4)	P4-1
Fourth preference: Married son or daughter of U.S. citizen (conditional status)	203(a)(4); 216(a), 100 Stat. 3537	C4-1
Fourth preference: Spouse of alien classified P4-1	203(a)(8)	P4-2
Fourth preference: Spouse of alien classified C4-1 (conditional status)	203(a)(8); 216(a), 100 Stat. 3537	C4-2
Fourth preference: Child of alien classified P4-1	203(a)(8)	P4-3
Fourth preference: Child of alien classified C4-1	203(a)(8); 216(a), 100 Stat. 3537	C4-3
Fifth preference: Brother or sister of U.S. citizen twenty-one years of age or older	203(a)(5)	P5-1
Fifth preference: Spouse of alien classified P5-1	203(a)(8)	P5-2
Fifth preference: Child of alien classified P5-1	203(a)(8)	P5-3
Sixth preference: Needed skilled or unskilled worker	203(a)(6)	P6-1
Sixth preference: Spouse of alien classified P6-1	203(a)(8)	P6-2
Sixth preference: Child of alien classified P6-1	203(a)(8)	P6-3
Nonpreference immigrant	203(a)(7)	NP-1-

§ 42.27 [Removed and reserved]

3. Section 42.47 is removed and reserved.

4. Section 42.51 is revised to read:

§ 42.51 Exception for accompanying child.

If necessary to prevent the separation of a child from the alien parent or parents, an immigrant child, including a child born in a dependent area, may be charged to the same foreign state to which a parent is chargeable, if the child is accompanying or following to join the parent, in accordance with section 202(b)(1) of the Act.

5. Section 42.52 is revised to read:

§ 42.52 Exception for spouse.

If necessary to prevent the separation of husband and wife, an immigrant spouse, including a spouse born in a dependent area, may be charged to the foreign state to which the spouse is chargeable if accompanying or following to join the spouse, in accordance with section 202(b)(2).

6. In § 42.91, paragraph (a)(19)(i) is revised and (a)(19)(iii) is removed, (a)(23) is revised and (a)(24) is removed and reserved, as follows:

§ 42.91 Aliens ineligible to receive visas.

(a) * * *

(19) *Fraud and misrepresentation.* (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure, or has sought to procure, or has procured a visa, other documentation, or entry into the United States or other benefit provided under the Act shall be ineligible under section 212(a)(19); provided, that the provisions of this paragraph are not applicable if the fraud or misrepresentation was committed by an alien at the time the alien sought entry into a country other than the United States or obtained travel documents as a bona fide refugee and the refugee was in fear of being repatriated to a former homeland if the facts were disclosed in connection with an application for a visa to enter the United States; provided further, that the fraud or misrepresentation was not committed by such refugee for the purpose of evading the quota or numerical restrictions of the U.S. immigration laws, or investigation of the alien's record at the place of former residence or elsewhere in connection with an application for a visa.

* * * * *

(23) *Controlled substance violations.* An alien shall be ineligible to receive an immigrant visa under the provisions of section 212(a)(23) of the Act, as amended, as a result of a conviction for a violation of, or for conspiracy to violate any law or regulation relating to a controlled substance, as defined in the Controlled Substance Act, (21 U.S.C. 802), which occurred before, on, or after October 27, 1986.

* * * * *

7. Section 42.111(b) is revised to read:

§ 42.111 Supporting documents.

* * * * *

(b) *Documents required.* An alien applying for an immigrant visa shall be required to furnish, if obtainable: a copy of each required police certificate; a certified copy of any existing prison record, military record, and record of birth; and a certified copy of all other records or documents which the consular officer considers necessary.

* * * * *

8. Section 42.116(b) is revised to read as follows:

§ 42.116 Registration and fingerprinting.

* * * * *

(b) *Fingerprinting.* An alien may be required at any time prior to the execution of Form OF-230 to have a set of his fingerprints taken if such procedure is necessary for purposes of identification or investigation.

9. In § 42.125, paragraphs (a) and (b) are amended by revising their first sentences, and paragraph (c) is removed as follows:

§ 42.125 Issuance of new or replacement visas.

(a) *New immigrant visa for an alien not subject to numerical limitation.* An immediate relative within the meaning of section 201(b) of the Act, or a special immigrant described in section 101(a)(27) of the Act, who establishes that his visa has been lost or mutilated and has expired, or that he will be unable to use it during the period of its validity, may be issued a new visa at the same or any other consular office upon payment of the statutory application and visa fees if the immigrant is at that time found qualified to receive such visa. Prior to issuing a new immigrant visa * * *

(b) *Replacement of immigrant visa for an alien subject to numerical limitations.* An immigrant documented under section 203 of the Act who establishes that he was or will be unable to use it during the period of its validity because of reasons beyond his control and for which he is not responsible, may be issued a replacement immigrant visa under the original number during the same fiscal year in which the original visa was issued, if the number has not been returned to the Department upon payment anew of the statutory application and visa fees, if the immigrant is at that time found qualified to receive such a visa. Prior to issuing a new immigrant visa * * *

10. Paragraph (a) of § 42.130 is amended by removing the last four sentences and inserting new language after the third sentence to read as follows:

§ 42.130 Procedure in refusing visas

(a) Refusal procedure. * * * Each document related to the refusal shall then be attached to Form OF-230 for retention in the refusal files. Any document not related to the refusal shall be returned to the applicant. If the grounds of ineligibility may be overcome by the presentation of additional evidence and the applicant indicates an intention to submit such evidence, all documents may, with the consent of the alien, be retained in the consular files for a period not to exceed one year. If the refusal has not been overcome within one year, any documents not relating to the refusal shall be removed from the file and returned to the alien.

* * * * *

Dated: July 21, 1987.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 87-17947 Filed 8-7-87; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Public Comment Period and Opportunity for Public Hearing on an Amendment to the Missouri Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of amendments submitted by the State of Missouri to amend its permanent regulatory program (hereinafter referred to as the Missouri Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Missouri regulatory program concerning backfilling and grading, revegetation, use of explosives, signs and markers, permit application requirements, penalty assessment, and liens for reclamation on abandoned mined lands.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment, and information pertinent to the public hearing.

DATES: Comments not received on or before 4:00 p.m. September 9, 1987 will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on September 4, 1987 beginning at 10:00 a.m. at the location shown below under **"ADDRESSES"**.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106.

If a public hearing is held, its location will be at: Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106.

See **"SUPPLEMENTARY INFORMATION"** for addresses where copies of the Missouri program amendment and administrative record on the Missouri program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSMRE Kansas City Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the Missouri program amendment, the Missouri program, and the administrative record on the Missouri program are available for public review and copying at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Kansas City Filed Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106; Telephone (816) 374-5527.

Office of Surface Mining Reclamation and Enforcement, 1100 L Street, NW, Room 5131, Washington, DC 20240; Telephone: (202) 343-5447.

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, Missouri 65102; Telephone: (314) 751-4041.

Written Comments

Written comments should be specific, pertain only to those issues proposed in this rulemaking, and include explanations in support of the comment recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Kansas City, Missouri, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business August 25, 1987. If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in

advance of the hearing will also allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed in "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT**".

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

Background

On February 1, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Missouri. On November 21, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary conditionally approved the Missouri program (45 FR 77017–77028).

Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, and the disposition of comments, and explanations of the condition of approval of the Missouri program can be found in the November 21, 1980 **Federal Register**. Subsequent actions concerning the Missouri program are identified in 30 CFR 925.15 and 925.16.

Proposed Amendment

On June 22, 1987, the State of Missouri submitted to OSMRE an amendment to its approved permanent regulatory program. The amendment consists of proposed modifications to Missouri's regulations concerning backfilling and grading, revegetation, use of explosives, signs and markers, permit application requirements, penalty assessment, and liens for reclamation on abandoned mined lands.

The proposed changes are summarized briefly below.

Backfilling and Grading Requirements

1. Missouri proposes to amend rule 10 CSR 40–3.110(6) on regrading or stabilizing rills and gullies. The proposed amendment establishes a more well-defined shedule for initial stabilization and permanent repair of two size classes of rills and gullies in areas that have been regraded and topsoil replaced. The schedule sets out a time frame for treating all rills and gullies that are greater than nine inches in depth, or those that are less than nine inches in depth but may adversely affect performance standards in the areas of land use, vegetative cover, or off-site water quality standards.

Revegetation Requirements

2. Missouri proposes to amend rule 10 CSR 40–3.120(8) (A) and (D) to more accurately define the reclamation scheduled for backfilling and rough grading, establishing of a vegetative cover, conditions and requirements for Phase II liability release, and conditions for review of Phase II liability variance requests. The proposal gives the permittee the opportunity to develop a unique reclamation schedule that must be as contemporaneous as the approved schedule. Initial seeding, rather than completion of backfilling and rough grading, is used as the starting point of the time period allowed for establishing a permanent vegetative cover and submittal of a Phase II liability release request. Requirements that a Phase II liability variance request be reviewed as a major permit revision are deleted.

Use of Explosives

3. Missouri proposes to amend rules 10 CSR 40–3.050 for surface coal mining operations, and 10 CSR 40–3.210 for underground coal mining operations. The permanent program performance standards of the use of explosives are completely revised so that they closely parallel the Federal regulations at 30 CFR 816.61 through 816.68 and 30 CFR 817.61 through 817.68. Some differences still exist between the two programs as indicated by the following:

4. There is no provision in 10 CSR 40–3.210(1)(C) or 10 CSR 40–3.050(1)(C) for the possession and filing of certificates of blaster certification at the permit area as in 30 CFR 816.61(C)(2) and 30 CFR 817.61(C)(2).

5. Missouri requires at least 40 days for notification of preblast surveys in 10 CSR 40–3.050(2)(A) and 10 CSR 40–3.210(2)(A) rather than the 30 days required in 30 CFR 816.62(a) and CFR 817.62(a).

6. Missouri requires in 10 CSR 40–3.050(2)(D) and 10 CSR 40–3.210(2)(D) that a person who disagrees with a survey must file a description of the disagreement within 45 days of receipt of the survey. This requirement is not found in 30 CFR 816.62(d) and 30 CFR 817.62(d).

7. Missouri requires, in addition to the requirement of 30 CFR 816.62 and 30 CFR 817.62, that the Director be provided a list of persons notified for a pre-blast survey. The list must show who has agreed to a survey and who has refused 30 days prior to initiation of blasting in 10 CSR 40–3.050(2)(F) and 10 CSR 40–3.210(2)(F).

8. Missouri requires, in addition to the requirements of 30 CFR 816.62 and 30 CFR 817.62, that the property owner be advised that the pre-blast survey will be made at no cost to the property owner in 10 CSR 40–3.050(2)(G) and 10 CSR 40–3.210(2)(G).

9. Missouri defines periodic monitoring, required in 30 CFR 816.67(b)(2) and 30 CFR 817.67(b)(2), as "one blast every three months (the first quarter to commence the first day of the month in which blasting is initiated)". The record of the monitored event is to be submitted to the Director 15 days subsequent to the end of the quarter, as required in 10 CSR 40–3.050(5)(B)(2)(A) and 10 CSR 40–3.210(5)(B)(2)(A).

10. Missouri requires, in addition to the requirements of 30 CFR 816.67(d)(2) and 30 CFR 816.67(d)(2), that ground vibration not exceed specified limits at "commercial buildings" in 10 CSR 40–3.050(5)(D)(2)(A) and 10 CSR 40–3.210(5)(D)(2)(A).

Signs and Markers

11. Missouri proposes to amend rules 10 CSR 40–3.010(6) for surface coal mining operations and 10 CSR 40–3.170(6) for underground coal mining operations. The proposal deletes the specifications for blasting signs which are now given as proposed in 10 CSR 40–3.050 and 10 CSR 40–3.210.

Permit Application Requirements

12. Missouri proposes to amend 10 CSR 40–6.010(3)(C) to correct the citation of several Federal acts.

13. Missouri proposes to amend 10 CSR 40–6.010(5)(c) to include the requirement that technical information presented in the permit application "shall be planned by or under supervision of a qualified professional in the subject area".

14. Missouri proposes to amend 10 CSR 40–6.030(2)(C) to expand the listing of notices of violations to include any subsidiary, affiliate, or persons controlled by or under common control with the applicant.

15. Missouri proposes to amend 10 CSR 40-6.050(4) to delete listing blast pattern specifications that are also required in 10 CSR 40-3.050(6). The applicant is now requested to provide a plan showing how the applicant will comply with the appropriate performance standards for controlling adverse effects of blasting operations. The applicant must address a plan that meets the limitations for ground vibration and air blast. The applicant must also describe his blast monitoring system and seek specific approval for a blast plan that proposes to blast closer than 500 feet from an active underground mine.

16. Missouri proposes to amend 10 CSR 40-6.070(2)(C) to require permit application notification to the local office of the Soil Conservation Service, the local U.S. Army Corps of Engineers district engineer, and the National Park Service.

17. Missouri proposes to amend 10 CSR 40-6.070(6) to delete the entire section and rewrite it to more closely parallel 30 CFR 773.13(d) relating to public availability of permit applications.

18. Missouri proposes to amend 10 CSR 40-6.070(7)(E) to require that the applicant has the burden of establishing compliance with the program.

19. Missouri proposes to amend 10 CSR 40-6.070(8)(M) to require the applicant to satisfy the requirements of a long-term, intensive agricultural post-mining land use prior to permit application.

20. Missouri proposes to amend 10 CSR 40-6.090(4)(E) to require that the applicant has the burden of establishing compliance with the program.

21. Missouri proposes to amend 10 CSR 40-6.090(6)(A)(3) to correct a regulation citation from "10 CSR 40-7.020(4)" to "10 CSR 40-7.050".

22. Missouri proposes to amend 10 CSR 40-6.090(9) to change the required approval from the commission to the director.

23. Missouri proposes to amend 10 CSR 40-6.090(10) to delete the existing language and replace it with language that closely parallels that of 30 CFR 774.17(b), (c), (d), (e), and (f) concerning transfer, assignment, or sale of permit rights.

24. Missouri proposes to amend 10 CSR 40-6.090(11) by deleting this section, made unnecessary after amending 10 CSR 40-6.090(10).

25. Missouri proposes to amend 10 CSR 40-6.100(2)(C) to include the listing of notices of violation by any subsidiary, affiliate, or persons controlled by or under common control with the applicant.

Penalty Assessment

26. Missouri proposes to amend 10 CSR 40-8.040(3)(B)(1) tc make several wording changes to improve accuracy in the area of violation history.

27. Missouri proposes to amend 10 CSR 40-8.040(3)(B)(2)(A) to add language that will detail how points are assigned for assessing extent of potential or actual damage.

28. Missouri proposes to amend 10 CSR 40-8.040(3)(B)(2)(C) to add language that will detail how points are assigned for assessing violations of administrative requirements.

29. Missouri proposes to amend 10 CSR 40-8.040(3)(B)(2)(A)(II) to add language that will detail how points are assigned for negligence.

30. Missouri proposes to amend 10 CSR 40-8.040(3)(B)(3)(A)(III) to add language that will detail how points are assigned for violations that occur through a greater degree of fault than negligence.

31. Missouri proposes to amend 10 CSR 40-8.040(3)(B)(4)(A) to add language that will detail how points are substracted based on good faith.

32. Missouri proposes to amend 10 CSR 40-8.040(3)(B)(4)(D) to state that an operator will not necessarily be disqualified from good faith points because of an extended abatement period.

Reclamation of Private Lands

33. Missouri proposed to amend 10 CSR 40-9.060(2)(A) to delete the existing language and replace it with language that closely parallels 30 CFR 882.12 concerning appraisals of reclaimed land.

34. Missouri proposes to amend 10 CSR 40-9.060(3)(A) to make several wording changes for greater accuracy concerning liens on reclaimed land.

35. Missouri proposes to amend 10 CSR 40-9.060(3)(B) to closely parallel the language of 30 CFR 882.13(b) concerning the recording of liens on reclaimed land.

36. Missouri proposes to amend 10 CSR 40-9.060(4)(A) to closely parallel the language of 30 CFR 882.14(a) concerning satisfaction of liens.

Therefore, the Director of OSMRE is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address whether the proposed amendments are as stringent as SMCRA and no less effective than its implementing regulations.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for action directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis, and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

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

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 30, 1987.

Raymond L. Lowrie,

Assistant Director, Western Field Operations, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87-18049 Filed 8-7-87; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3242-9]

Organic Solvent Cleaning (Degreasing); Initiation of Regulatory Investigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice requesting public participation in information gathering for organic solvent cleaning.

SUMMARY: The EPA is considering development of national emissions standards for hazardous air pollutants (NESHAP) for organic solvent cleaners under section 112 of the Clean Air Act. These standards would control

emissions of trichloroethylene (TCE), perchloroethylene (PCE), and methylene chloride (MC) from both existing and new solvent cleaners. The EPA is also considering concurrent development of new source performance standards (NSPS) under section 111 of the Clean Air Act for control of volatile organic compounds (VOC) emissions from solvent cleaners. The types of equipment that would be regulated include cold cleaners, parts washers, open top vapor degreasers, conveyorized degreasers, and other organic vapor generating devices used in cleaning or drying. The purpose of this notice is to advise the public that regulatory activities are being considered and to identify interested parties who would participate in the information gathering activities for standards development.

DATE: Comments must be submitted on or before October 9, 1987.

ADDRESS: Written comments should be submitted to Mr. Robert E. Rosensteel, Chemicals and Petroleum Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5608.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Beck, Chemicals and Petroleum Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5421.

SUPPLEMENTARY INFORMATION: The EPA proposed NSPS for organic solvent cleaners on June 11, 1980 (45 FR 39766) under the provisions of section 111 of the Clean Air Act. These standards would have limited emissions of VOC, as well as five halogenated solvents (TCE, PCE, MC, trichlorotrifluoroethane (CFC113), and 1,1,1-trichloroethane) from new, modified, or reconstructed cleaners. In Aprill 1981 (46 FR 22768), the Agency deferred the effective date of the proposed NSPS to address technical concerns raised during the public comment period by organic solvent cleaning equipment manufacturers. Work was subsequently delayed to allow time for further investigation of health effects of the five halogenated solvents and to make decisions on whether they should be listed and regulated as hazardous air pollutants under Section 112. Based on more recent health effects data, the Agency published notices of intent to list two of the five solvents as hazardous air pollutants: TCE (50 FR 52422; December 23, 1985), and PCE (50 FR 52880; December 26, 1985). A decision to study MC under Section 112 was included in an advance notice of proposed rulemaking jointly published by the EPA Office of Air and Radiation (OAR) and the Office of Toxic Substances (50 FR 42037; October 17, 1985). Notices of the EPA's intent not to list as hazardous air pollutants were published for CFC-113 (50 FR 24313; June 10, 1985) and 1,1,1-trichloroethane (50 FR 24314; June 10, 1985). The decisions on CFC-113 and 1,1,1-trichloroethane were based on health effects from direct exposure to these chemicals. The health effects resulting from stratospheric ozone depletion (potentially caused by CFC-113 and 1,1,1-trichloroethane) are currently being studied under Part B of the Clean Air Act.

An Interagency Chlorinated Solvents Working Group (ICSWG) was established in December 1985 to determine the most effective regulatory authorities for addressing multimedia releases of the chlorinated solvents from organic solvent cleaning and three other source categories. The OAR, as a part of this group, is pursuing development of standards for solvent cleaning under sections 111 and 112 of the Clean Air Act. This decision could be superseded at a later date as a result of the ongoing ICSWG activities, or solvent cleaning could be regulated under two or more authorities.

The EPA is seeking to identify interested parties who would participate in the information gathering activities for standards development. Participation may include technical discussions with EPA representatives, comments on draft EPA technical documents and regulations, and submittal of information pertinent to organic solvent cleaner emissions, controls, cost of control, and control implementation.

Solvent cleaning operations are used in a wide variety of industries. Manufacturing and service industries that would be affected by the standards being considered are listed below by their Standard Industrial Classification (SIC) code.

SIC	Industry
20	*Food and Kindred Products*
205	Bread and Other Bakery Products, Except Cookies and Cakes
25	Metal Furniture.
254	Partitions and Fixtures.
259	Miscellaneous Furniture and Fixtures.
33	Primary Metals.
332	Iron and Steel Foundries.
335	Nonferrous Rolling and Drawing.
336	Nonferrous Foundries.
339	Miscellaneous Primary Metal Products.
34	Fabricated Products.
342	Cutlery, Hand Tools, and Hardware.
343	Plumbing and Heating (except Electrical).
344	Fabricated Structural Metal Products.
345	Screw Machine Products, Bolts, etc.
346	Metal Forgings and Stampings.
347	Metal Services.
348	Ordnance and Accessories.
349	Miscellaneous Fabricated Metal Products.
35	Non-Electric Machinery.
351	Engines and Turbines.
352	Farm and Garden Machinery.
353	Construction and Related Machinery.
354	Metalworking Machinery.
355	Special Industrial Machinery.
356	General Industrial Machinery.
357	Office of Computing Machines.
358	Refrigeration and Service Machinery.
359	Miscellaneous Machinery (except Electrical).
36	Electric Equipment.
361	Electric Distributing Equipment.
362	Electrical Industrial Apparatus.
364	Electric Lighting and Wiring Equipment.
366	Communication Equipment.
367	Electronic Components and Accessories.
369	Miscellaneous Electrical Equipment and Supplies.
37	Transportation Equipment.
371	Motor Vehicles and Equipment.
372	Aircraft and Parts.
376	Guided Missiles, Space Vehicles, Parts.
379	Miscellaneous Transportation Equipment.
38	Instruments and Clocks.
381	Engineering and Scientific Instruments.
382	Measuring and Controlling Devices.
39	Miscellaneous Manufacturing Industries.
40	Railroad Transportation.
401	Railroads—Maintenance.
45	Air Transportation.
458	Air Transport—Maintenance.
55	Automotive Dealers and Gasoline Service Stations.
551	Motor Vehicle Dealers (New and Used).
554	Gasoline Service Stations.
75	Automotive Repair, Services, and Garages.
753	Auto Repair.

BEST COPY AVAILABLE

Dated: July 31, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-17881 Filed 8-7-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 228

[OW-4-FRL-3245-1]

Ocean Dumping; Proposed Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate four sites in the Gulf of Mexico as EPA-approved ocean dumping sites for the dumping of dredged material. These sites are located one each offshore Pensacola, Florida and Mobile, Alabama and two offshore Gulfport, Mississippi. This action is to designate acceptable ocean dumping sites for the current and future disposal of dredged material.

DATE: Comments must be received on or before September 9, 1987.

ADDRESSES: Send comments to: Sally Turner, Chief, Marine Protection Section, Water Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

The file supporting these proposed site designations is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460

EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365

FOR FURTHER INFORMATION CONTACT: Reginald Rogers, 404/347-2126.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. These proposed site designations are within Region IV and are being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977, (42 FR 2461 *et seq.*), and was extended on August 19, 1985, (50 FR 33338). The list established the existing sites at Pensacola, Mobile, and Gulfport as interim sites and extended their periods of use until December 31, 1988. Interested persons may participate in this proposed rulemaking by submitting written comments within 30 days of the date of this publication to the address given above.

B. EIS Development

Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, ("NEPA") requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as these [See 39 FR 16186 (May 7, 1984)].

EPA has prepared a draft and final EIS entitled, "Environmental Impact Statement (EIS) for Pensacola, Florida, Mobile, Alabama, and Gulfport, Mississippi Ocean Dredged Material Disposal Site Designation." The action discussed in the EIS is the final designation for continuing use of ocean dredged material disposal sites near Pensacola, Florida, Mobile, Alabama, and Gulfport, Mississippi. The purpose of the proposed action is to designate an environmentally acceptable location for ocean disposal of dredged materials. The need for ocean disposal is assessed on a case-by-case basis as part of the process of evaluating ocean disposal projects.

The EIS discusses the need for the designation and examines ocean disposal site alternatives to this proposed action. The EIS evaluated near-shore, mid-shelf and shelf-break alternatives sites using the general criteria and specific factors contained in the Ocean Dumping Regulations. The EIS presents information needed to evaluate the suitability of ocean disposal areas for final designation for continuing use and is based on one of a series of disposal site environmental studies.

On Friday, February 13, 1987, a notice of availability of the Final EIS (FEIS) for public review and comment was published in the **Federal Register** [52 FR 4658 (February 13, 1987)]. Anyone desiring a copy of the FEIS may obtain one from the EPA address above. Four responses were received from EPA's request for comments on the FEIS and are addressed below.

Letters of comment from the Alabama State Historical Commission, Federal Highway Administration, and U.S. Army Corps of Engineers, South Atlantic Division, each supported the four site designations as presented in the FEIS. The Corps correctly stated that the date given in the FEIS for the expiration of the interim sites (January, 1985) was incorrect. The correct date for expiration of the interim sited is December, 1988.

The State of Florida responded with specific comments from different State departments concerning the Pensacola site. The Florida Department of Environmental Regulation (FDER) questioned the need to expand the boundaries of the interim Pensacola site for the final designation, disagreed with EPA's criteria for determining if dredged material was predominantly sand (the Pensacola site will be designated only for disposal of predominantly sand dredged material), and comment that site management plans were not specified.

The reasons for expanding the boundaries of the interim Pensacola site from .64 square nautical miles to 2.5 square nautical miles are given on page 2-6 of the Final EIS. The expanded area represents the area which the Corps has advised EPA has been historically used for dredged material disposal. In addition, the expanded area allows EPA to monitor disposal activities at the site and provides the flexibility to alter disposal techniques or employ other contingency measures as the monitoring results dictate.

It is not intended for the entire disposal site to be used at random. Rather, disposal will be confined to certain portions of the site, as determined in the development of a site management plan, and monitored for impacts. If the monitoring results indicate significant mounding, migration or adverse effects, the expanded site provides an adequate area for disposal techniques, rates, and discharge points to be altered. The larger site allows changes in disposal operations to minimize the effects of disposal.

EPA determined in the Final EIS that disposing significant quantities of silt and clay at the proposed Pensacola site could present water quality disturbances associated with high turbidities and transport of fine sediments in the water column. If significant quantities of fine material remain in the water column the potential exists for the transports of these

materials to the shore. Therefore, EPA proposed to restrict the Pensacola site for only predominantly sand sediments. The restriction requires that only sediments in which the majority of samples tested showed a median grain size of >.125 mm and a composition of less than 10% fines could be disposed of at the site. FDER commented that the term "majority" could possibly allow the disposal of too many fine particles. EPA will review the information required by the Ocean Dumping Regulations (ODR) 40 CFR 225.2 for each actual use of the Pensacola site which is proposed. The ODR require that this information include the characteristics and composition of dredged materials proposed for disposal. EPA will ensure that the materials have been shown to be predominantly coarse grained based on the grain size analysis of samples taken at intervals sufficient to characterize the reach. EPA believes that such consideration of the grain size data on a use-by-use basis gives a reasonable assurance that significant quantities of silt and clay will not be disposed of at the site. Specific criteria, such as the number of samples to be taken or the number of samples that must fall into a given grain size range, should not be specified at the site designation stage because each use must be evaluated accordingly to the characteristics of the reach or reaches to be dredged.

The disposal site management plan was mentioned only in general terms in the FEIS. A more detailed plan is included in Section F of this proposed rule. However, specific monitoring plans can be developed only when detailes about a disposal project are known.

The Florida Department of Natural Resources (FDNR) commented that the proposed designation of the Pensacola site would require an easement from the State of Florida. EPA believes that the mere designation of the Pensacola site as an environmentally suitable location for disposal of dredged material does not encroach on State sovereignty over submerged lands. As stated in the FEIS, does not consider State requirements for leases or easements for activities using State waters applicable to EPA's site designations. Such designations do not authorize any use for ocean dumping. They are essentially statements of EPA's judgments about the environmental suitability of the site as a potential repository for dredged material. By designating the Pensacola site, EPA does not express approval of any particular disposal project there. Each project must be evaluated on a case-by-case basis. It is through project evaluation that a decision is reached as to the most appropriate disposal option.

FDNR also expressed opposition to the disposal of beach quality material in the proposed site and recommended that the designation be restricted to prevent disposal of beach quality materials.

Since EPA has determined that the proposed Pensacola site is environmentally suitable for coarse grained beach-compatible materials, the Agency does not believe it is appropriate to restrict the site designation such that beach-compatible material cannot be disposed there.

C. Coastal Zone Management and Endangered Species Coordination

Pursuant to the Coastal Zone Management Act (CZMA) EPA has reviewed the Costal Zone Management Plans (CZMP) of the States of Alabama and Mississippi. Based on this review, EPA has determined that the proposed action is consistent with the CZM plans of these States. On October 7, 1984, letters expressing EPA's determination of CZMP consistency were sent to Alabama and Mississippi. No comments were received from either State. After reviewing Florida's CZMP, EPA also determined that the proposed action to be consistent with this plan. On March 16, 1987, the State of Florida responded to EPA's consistency determination and indicated that the State would not concur with EPA's determination unless EPA took the following steps:

1. Condition the disposal site to allow only the disposal of dredged material that is predominantly sand as defined by a median grain size of >.125 mm and composition of <10% fines.
2. Provide description of disposal site management practices.
3. Include the State in monitoring plan development.
4. Specify contingencies to be implemented if the material moves off site or impacts to marine biota are detected.
5. Obtain an easement for use of the state-owned submerged lands.
6. Limit the size of the site to the dimensions of the interim site.

EPA has reported to Florida's requirements for concurrence as follows:

1. EPA has agreed to condition its Pensacola site designation so as to allow the disposal of only dredged material that is predominantly sand as defined by a median grain size of >.125 mm and composition of <10% fines.
2. A description of the general disposal site management practices is given in Section F below. Specific monitoring plans for the Pensacola site, based on information about specific uses of the site, will be developed as that information becomes fully available.
3. As indicated in the FEIS, the development of specific monitoring plans for EPA-designated disposal sites is coordinated with the appropriate state and federal agencies. Therefore, the State of Florida will be included in the process of developing specific monitoring plans for the proposed Pensacola site.
4. As more fully discussed in Section F below, EPA will take appropriate steps, including the modification or termination of the site designation, if significant adverse effects are revealed through site monitoring.
5. EPA does ot believe that State requirements for leases or easements are relevant to disposal site designations which, for reasons discussed in Section B above, do not encroach upon State sovereignty over submerged lands. The National Oceanographic and Atmospheric Administration, the federal agency responsible for overseeing the implementation of the federal consistency provisions of the CZMA, has advised EPA and the State of Florida, by letter dated April 23, 1987, that no valid finding of inconsistency to the Florida CMP may be based on a requirement that EPA obtain a lease or easement related to its site designation.
6. As discussed in Section B above, the larger site reflects the area which the Corps has indicated was used for past disposal. This size is also recommended in implementing the management plan set forth in Section F below, including contingency actions contemplated.

For the reasons outlined above EPA continues to believe in the correctness of its determination that the Pensacola site designation is consistent with the Florida CMP to the maximum extent practicable as required by section 307 of the CZMA.

Pursuant to section 7 of the Endangered Species Act the National Marine Fisheries Service and the U.S. Fish and Wildlife Service have concurred with EPA's conclusion that these site designations will not affect the endangered or threatened species or their habitat under federal jurisdiction.

D. Proposed Site Designation

The proposed Pensacola site is located approximately 1.5 nautical miles (nmi) from Perdido Key and occupies an area of about 2.48 square nautical miles. Water depths within the area average 11 meters. The coordinates of the site are as follows:

30°17'24" N; 87°18'30" W.	30°15'36" N; 87°17'48" W.
30°17'00" N; 87°19'50" W.	30°15'15" N; 87°19'18" W.

The site will be designated for the disposal of predominantly sand-sized dredged material only.

The proposed Mobile site is located approximately 4.2 nmi from Mobile Point and occupies an area of approximately 4.8 nmi². Water depths in the area average 14 meters. The coordinates of the site are as follows:

30°10'00" N., 88°07'42" W.	30°08'30" N., 88°05'12" W.
30°10'24" N., 88°05'12" W.	30°08'30" N., 88°06'12" W.
30°09'24" N., 88°04'42" W.	

The two proposed Gulfport sites lie, one to the east and one to the west of Ship Island Bar Channel. The eastern site is approximately 1.2 nmi from Ship Island containing an area of approximately 2.47 nmi² in depths averaging 9.1 m. The western site is approximately 0.7 nmi from Ship Island and contains an area of approximately 5.2 nmi² in water depths averaging 8.2 m. The coordinates of the sites are as follows:

Eastern	*Western*
30°11'10" N., 88°58'24" W.	30°12'00" N., 89°00'30" W.
30°11'12" N., 88°57'30" W.	30°12'00" N., 88°59'30" W.
30°07'36" N., 88°54'24" W.	30°11'00" N., 89°00'00" W.
30°07'24" N., 88°54'48" W.	30°07'00" N., 88°56'30" W.
	30°08'36" N., 88°57'00" W.
	30°10'30" N., 89°00'36" W.

E. Regulatory Requirements

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts beyond the site boundaries at an early stage. Where feasible, locations off the Continental Shelf and other sites that have been historically used are to be chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated.

The proposed sites conform to the five general criteria except for the preference for sites located off the Continental Shelf. There are no existing sites off the Continental Shelf; and EPA has determined, based on the information presented in the EIS, that no environmental benefit would be obtained by selecting new sites off the Continental Shelf instead of historically-used sites.

The Ocean Dumping Regulations at 40 CFR 228.6 also lists 11 specific criteria used in evaluating a proposed disposal site to assure that the general criteria are met. These 11 criteria constitute an environmental assessment of the impact on the site for disposal. The criteria are used to make comparisons between the alternative sites and are the basis for final site selection. The characteristics of the proposed sites are reviewed below in terms of these 11 criteria.

1. Geographical position, depth of water, bottom topography, and distance from coast [40 CFR 228.6(a)(1)]

Geographical positions and distances from the coast for each site are given above. Water depth at the proposed Pensacola site ranges from 8 to 18 meters; the bottom topography slopes to the south-southwest and is sandy. Water depths at the Mobile site range from 12 to 16 meters; the bottom slopes gradually to the southwest and is composed of fine sand and silt. Water depths at the two Gulfport sites range from 6 to 9 meters; the bottom at each site slopes to the southeast and is composed of silt, clay, and fine sand.

2. Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases [40 CFR 228.6(a)(2)]

The proposed Pensacola and Mobile sites are in the vicinity of Pensacola Bay and Mobile Bay, respectively, which are important nursery and spawning areas for species of fish and shrimp. The Gulfport proposed sites are in the vicinity of Mississippi Sound, which similarly constitutes a productive nursery and spawning area. In addition, the Gulfport sites are located within one nautical mile or less of Ship Island pass, an important passage area for these species. Movement of nekton into estuaries occurs mainly from January to June; migration back into the Gulf typically occurs from August to December. Seasonal variations in abundances of nekton at the sites are expected to coincide with the migration patterns of coastal species. No effect on these areas or the species migration has been detected from past use of the sites.

3. Location in relation to beaches and other amenities [40 CFR 228.6(a)(3)]

The proposed sites have predominantly sand to silt and clay (Gulfport) bottoms, with associated species characteristic of northeastern Gulf waters. These sites do not represent unique habitats, but rather constitute small areas within the larger nearshore area. There are, however, fish havens/artificial reefs in the nearshore areas which may represent unique habitat areas. For instance, an extensive fish haven is located approximately one nautical mile south of the proposed Mobile site. Bottom currents may periodically transport dumped material toward this sensitive area. However, previous disposal at the site has not impacted this area. Transport of dumped material off Pensacola and Gulfport is not as great a concern because fish havens are located at greater distances from the sites.

Amenity areas in the vicinity of the Pensacola site are Pensacola Bay, Fort Pickens State Park Aquatic Preserve (part of Gulf Islands National Seashore), and beaches on Perdido Key and Santa Rosa Island. The site is located 2.3 to 1.5 nmi from these areas. Prevailing southwesterly currents should not transport dumped material toward Pensacola Bay and local beaches. The site is limited to the disposal of sand-sized dredged material only to further reduce the chance of significant movement of the material in the water column.

Amenity areas in the vicinity of the Mobile site include Mobile Bay and beaches on Dauphin Island and Ft. Morgan Peninsula. Casino Pier, a 500- to 600-foot pier, is also an important attraction on Dauphin Island. The Mobile site is located at least 4 nmi from these areas, and dumped dredged material should not affect them because of this distance.

Amenity areas in the vicinity of the Gulfport sites include the Mississippi Sound and Ship Island (part of Gulf Islands National Seashore). The sites are located 0.7 and 1.2 nmi from the island, where swimming, fishing, hiking, and picnicking take place. Although prevailing currents should carry dumped sediments away from the island during most of the year, there remains the potential that dumped material may be periodically redistributed toward the island. However freshwater inputs in the area also add suspended sediments to the area waters. Past disposal at the Gulfport sites has not indicated that material dispersion has resulted in any impacts to amenity areas.

4. Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any [40 CFR 228.6(a)(4)]

Material dumped in the past at the Pensacola, Mobile and Gulfport ocean disposal sites has originated from dredging of the Entrance Channel, Bar

Channel and Ship Island Bar Channel, respectively. Quantities of material dredged and the frequency of dredging operations have varied in the past and are expected to vary in the future. Dredging is on an as-needed basis and is scheduled according to availability of funds and equipment. Thus, the quantities of material to be dumped at the proposed sites depend on the dredging requirements of the respective areas. All material dumped at ocean disposal sites must comply with the requirements of the Ocean Dumping Regulations (40 CFR Part 227) and must be environmentally acceptable for ocean disposal.

Analysis of material dredged from the Pensacola Entrance Channel shows that 93 percent of the material is sand. Because the sediments are composed primarily of sand and occur in areas of high wave energy, the sediments were determined to be suitable for ocean disposal at the Pensacola site. However, periodic grain size testing of the material will be done to ensure that its characteristics have not changed and that further analyses are not required. In January 1985 the Corps of Engineers, Mobile District published a draft EIS (SEIS) titled *Draft Supplemental Environmental Impact Statement Mobile Harbor, Alabama, Channel Improvements Offshore Dredged Material Disposal*. That SEIS describes the modification of the Mobile Channel system which will result in approximately 55,559,000 cubic yards of new work material. A portion of this material will be disposed in the Mobile site proposed for designation in this notice. This material consists of a combination of fine sands (Bar Channel), silts, and clays. Additionally 4.4 million cubic yards of annual maintenance material is proposed for ocean disposal once the channel modifications are complete. Samples of the channel material have been tested by bioassay and the results indicate the material is suitable for ocean disposal. Dredged material from the Gulfport Harbor Bar Channel may be considered substantially the same as the substrate at the disposal site.

Hopper dredges are used for the maintenance dredging of the Pensacola Entrance Channel, Mobile Bar Channel, and Gulfport Ship Island Bar Channel. The material dredged in the Mobile channel modifications would be excavated by hydraulic dredge using dump scows and tugboats to transport the material to the disposal area. The dredged material is not packaged in any way and is released when the bottom doors of the hoppers are opened while the vessel is underway. Barges may also be used for disposal operations at the sites.

5. Feasibility of surveillance and monitoring [40 CFR 228.6(a)(5)]

Surveillance of each site could be conducted by either U.S. Coast Guard aircraft or day-use boats. Because of the proximity of the existing Gulfport sites to Ship Island, use of shore-based observers may be possible. Monitoring is feasible at all sites.

Monitoring by EPA, the Corps of Engineers, and permittees, as required, will continue for as long as the sites are used. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the sites. The monitoring plans are based on site use and will be coordinated with the appropriate federal and state agencies. For further discussion of the management/monitoring plan see Section F.

6. Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any [40 CFR 228.6(a)(6)]

In shallow water nearly all coarse-grain dredged material falls to the bottom immediately after dumping. Only a small portion of the finer fraction is lost from the main settling surge, and this portion settles as flocculated particles. The finer particles usually take much longer to reach the bottom than the coarser fraction. Because dredged sediments from Gulfport and Mobile consist of fine-grained particles, turbidity plumes may persist longer at these sites than at the Pensacola site, which will receive coarser-grained material. However, after measuring turbidity effects before, during, and after dredging on the background levels, disposal appears insignificant when compared to the effects of shrimping, beach nourishment and natural weather events.

Sediment dispersion and transport in the nearshore area is controlled by prevailing wave energy, longshore drift, and storm-induced waves and currents. There is a strong westward-flowing longshore current along the Gulf side of the barrier islands, with speeds averaging 1 to 2.5 knots (kn) and increasing to 2.5 to 5 kn when augmented by tidal flows. Westward sediment transport is most dramatically illustrated in the westward drift of the barrier islands. The SEIS for the Mobile Channel improvements also indicates that sediment transport is predominately in the westward direction.

The existing and nearshore alternative sites are located aproximately 1 to 7 nmi offshore and probably have somewhat slower current speeds than near the barrier islands.

The flushing characteristics of the nearshore region are generally good during the winter. However, during the summer, density stratification may occur, thereby potentially restricting vertical mixing.

7. Existence and effects of current and previous discharges and dumping in the area (including cumulative effects) [40 CFR 228.6(a)(7)]

The existing sites have been used since at least 1970. During the period 1970 to 1981, approximately 3, 4, and 5 million cubic yards were dumped at the Pensacola, Mobile, and Gulfport existing sites, respectively. Surveys by EPA and a contractor did not detect significant adverse or cumulative effects from previous dredged material disposal. Species and abundance of infauna and epifauna generally were similar between the existing site and reference stations and similar to those described for comparable nearshore regions of the northeastern Gulf. Trace metal and CHC concentrations in epifauna collected with the disposal sites were low and below U.S. Food and Drug Administration action levels for fish and shell fish. In addition, water column and sediment parameters measured at the existing sites were typically similar in value to measurements taken at the reference stations. Also, values were generally within or below levels reported in the literature for the area and, where applicable, were within the quality criteria for marine waters.

One exception, however, occurred at Gulfport. Significantly higher lead concentrations were detected in exisiting site sediments than in reference station sediments. However, sediment composition was also different between the sites: Existing site sediments were predominantly silt and clay, and reference station sediments were primarily sand. The higher metal concentration in the existing site sediments is probably related to grain size, since it is commonly reported that higher metal concentrations are generally associated with finer-grained sediments such as those which naturally occur off the Mississippi Delta. However, dredge sediments from Gulfport contained higher concentrations of mercury, cadmium, and lead than either the existing site or reference station, indicating that metal enrichment of disposal site sediments could result from dumping. In any event

metal concentrations in the existing Gulfport site sediments were within ambient ranges reported for nearshore sediments of the northeastern Gulf. Monitoring at the site will continue to evaluate the metal concentrations.

Although no long-term or irreversible effects of disposal at the existing sites were evident from survey data, temporary or reversible effects may include: (1) Increases in suspended sediment concentrations; (2) localized mounding; (3) possible releases of ammonia, phosphorus, and some trace constituents; and (4) smothering of some benthic organisms.

Natural concentrations of suspended particulates in the area are high and seasonally variable due to river discharge and re-suspension of nearshore bottom sediments. Because of high background turbidity levels, the effects of temporary increases in turbidity from dredged material disposal should be minimal.

Discrete mounds of dreged material may occur as a result of dumping activities. However, dumped material should be transported and dispersed by currents and storm-induced flows; thus decreasing the likeihood of significant accumulation and shoaling within the disposal sites. Significant mounding occurs when a hazard to navigation is evident. It is recognized that mounding of the material to a lesser extent could be beneficial to the area in providing relief as a biological attraction.

Smothering of some benthic organisms, particularly species of limited motility such as tube-dwelling polychaetes, has probably resulted from dredged material disposal. However, results of the Dredged Material Reserach Program studies indicate that recolonization of affected areas is fairly rapid when the site is located in a high-energy environment and dredged materials are similar in composition to disposal site sediments.

8. Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean [40 CFR 228.6(a)(8)]

Extensive commercial shipping, commercial and recreational fishing, recreational activities, and some scientific investigations occur throughout the nearshore region. Hopper dredges, tugs and scows must operate in shipping lanes when dredging and traveling to and from the disposal site; however, intermittent use of a site should not impede commercial shipping traffic within the shipping channels. Hazards to navigation are lessened by use of the U.S. Coast Guard's Area Vessel Traffic System, extra caution and awareness by the captains of hopper dredges, and the Corps of Engineers Navigation Bulletins to mariners with dredging schedules.

Commercial and recreational fishing occurs, but it is not geographically limited to the vicinity of the proposed sites. Major fisheries exist for menhaden and shrimp in the nearshore region off Gulfport and Mobile. However, the disposal site represents only a small portion of the total fishing area available. Offshore Pensacola, commercial and sportfishing operations center primarily around hardbottom, artificial reef, and wreck areas. The Pensacola existing and alternative sites have predominantly sand bottoms; therefore, disposal activities should not interfere with major fishing activities in the area.

Other recreational activities in the nearshore region include boating, scuba diving, and swimming. The Pensacola and Gulfport existing sites are near the boundaries of the Gulf Islands National Seashore; the National Park Service has not noted any significant resource impacts from use of the existing sites. With the possible exception of a wreck in the existing Mobile site (reportedly at the southwestern boundary), the sites do not have unique features that would attract visitors. Intermittent use of the sites for disposal operations should not interfere with occasional recreational use of the areas.

No existing oil and gas structures are in the vicinity of the Pensacola and Gulfport sites. However, gas wells are located in the vicinity of the existing Mobile site. It is not expected that site use would interfere with the oil and gas exploration and development operations.

No mineral extraction, desalination projects, or fish and shellfish culture occur in the vicinity of the existing and alternative sites. Intermittent use of the sites should not interfere with scientific investigations which may be conducted in the area, nor does dredged material disposal interfere with any other legitimate uses of the ocean.

9. The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. [40 CFR 228.6(a)(9)]

The existing water quality is primarily affected by discharges from coastal rivers and bays and from anthropogenic inputs into nearshore waters. River discharges contribute appreciable quantities of suspended particulates, particularly near the Mississippi Delta, and, to a lesser extent, nutrients and trace pollutants to nearshore waters. Periodic storms influence the water quality and ecology of the area.

Phytoplankton and zooplankton studies have not been conducted at the existing or alternative sites; however, diatoms reportedly dominate phytoplankton populations and copepods dominate zooplankton populations in nearshore Gulf waters. Plankton abundances are generally highest during spring and summer.

Shrimp and some fish species dominate the epifaunal community of the sites and are typical of those reported from northeastern Gulf coastal waters. Several of the species observed are common over sand and fine sediments, including shrimp, sea catfish, sand seatrout, flounder, and tonguefish. Seasonal variations in abundances of nekton at the nearshore sites are expected to coincide with the migration patterns of dominant coastal species.

The benthic community of the proposed sites is generally dominated by deposit-feeding organisms. Differences in species composition, diversity, and abundances among the existing sites appear to be related to sediment types and are consistent with distributional trends reported in the literature.

Site surveys show that water quality and biological characteristics between areas within and adjacent to the proposed sites are generally similar. Therefore, dredged material disposal at the proposed sites does not appear to significantly alter existing water quality or ecology. Results of Dredged Material Research Project studies indicate that changes in water quality from dredged material disposal are temporary, lasting minutes to hours, depending on dilution, mixing characteristics, and parameter measured. Similarly, changes in the benthic community, which is most likely to be affected by dredged material disposal, were only temporary in high-energy, nearshore regions; and areas are generally repopulated within months.

10. Potentiality for the development or recruitment of nuisance species in the disposal site [40 CFR 228.6(a)(10)]

Surveys of the sites have not detected the development or recruitment of nuisance species. Organisms collected within the sites were similar to those collected in adjacent reference stations. There are no components in the dredged materials or consequences of their disposal that would attract nuisance species.

11. Existence at or in close proximity to the site of any significant natural or cultural features of historical importance [40 CFR 228.6(a)(11)]

No resources of historical importance occur within the existing Pensacola or Gulfport sites. However, there are shipwrecks and unidentified obstructions in the vicinity of the sites. A shipwreck is located 0.7 nmi north of the Pensacola existing site; two unidentified obstructions occur at the southeastern and northeastern boundaries of the western Gulfport site, and two unidentified shipwrecks occur within one nmi to the south and northeast of this site. A steel schooner reportedly lies at the western boundary of the existing Mobile site.

F. Site Management

The overall management of these sites is the responsibility of EPA. Currently a Memorandum of Understanding is being developed between the Corps of Engineers, South Atlantic Division, and EPA to effectively use the available resources of each agency for overall site management.

In general, site management will begin with the review of proposed projects for conformity to the Ocean Dumping Regulations. The projects will be reviewed to ensure that the need for ocean disposal exists, and that the material is suitable for ocean disposal at the proposed site. The locations within the site where dumping for a particular project may occur will be specified. The user of the site will report actual dumping information such as the types and quantities of materials disposed, and the LORAN coordinates where the actual disposal occurred.

Subsequent monitoring surveys will concentrate on the portion of the site which has been used according to site use reports. Monitoring objectives will be to: (1) Detect presence of material, (2) determine the extent of mounding or dispersion of the material, (3) determine migratory pattern of the material, if any (4) determine any impact associated with the migration, if any, and (5) determine if more intensive monitoring is required. The monitoring techniques available include underwater video and still photography, bathymetric measurements, side scan sonar, sediment physical, chemical, and biological analyses, water quality analysis and fish trawls. The techniques utilized for each survey will be based on a demonstrated need, on the results of past monitoring surveys at the site and the extent of disposal operations at the site.

If no significant accumulation of the material beyond the site boundary is detected, and mounding in the area used for disposal is not significant, the same area will continue to be used for disposal. If mounding becomes significant or if significant accumulation of material beyond the site boundaries is evident, the discharge point for future disposal operations will be moved to another area within the designated disposal site, and any impacts of the migration or mounding beyond the site boundaries will be assessed. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

At this time only the Mobile disposal site has a specific monitoring plan as disposal at the site is scheduled to begin in late 1987. The site will be monitored for impacts as well as benefits gained from creating a mound in the area. Further details on the Mobile monitoring plan may be obtained by writing EPA at the address given above. Specific plans will also be developed for the Pensacola and Gulfport sites when more specific information is available concerning the types and quantities of materials proposed for disposal. Each monitoring plan will contain quality assurance and quality control measures and will be coordinated with all appropriate state and federal agencies.

G. Proposed Action

The designation of the Pensacola, Mobile, and two Gulfport sites as EPA approved Ocean Dumping Sites is being published as a proposed rulemaking. Overall management of these sites is the responsibility of the Regional Administrator of EPA Region IV.

It should again be emphasized that a site designation does not constitute or imply EPA's approval of disposal of materials at sea. Before dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met.

H. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which will result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Date: August 3, 1987.

Lee A. DeHihns III,

Acting Regional Administrator, Region IV.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended as set forth below.

PART 228—[AMENDED]

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

Authority: 33 U.S.C. 1412 and 1418.

2. Part 228 is proposed to be amended by removing paragraph (a)(1)(i)(H) from § 228.12 and by adding paragraphs (b)(37), (38) and (39) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b)* * *

(37) Pensacola, Florida Dredged Material Disposal Site—Region IV.

Location: 30°17'24" N.; 87°18'30" W.; 30°17'00" N.; 87°19'50" W.; 30°15'36" N.; 87°17'48" W.; 30°15'15" N.; 87°19'18" W.

Size: 2.48 square nautical miles.

Depth: Average 11 meters.

Primary use: Dredged Material.

Period of use: Continuing use.

Restrictions: Disposal shall be limited to dredged materials which are shown to be predominantly sand (defined by median grain size greater than 0.125 mm and a composition of < 10% fines) and which meet the Ocean Dumping Criteria.

(38) Mobile, Alabama Dredged Material Disposal Site—Region IV

Location: 30°10'00" N.; 88°07'42" W.; 30°10'24" N.; 88°05'12" W.; 30°09'24" N.; 88°04'42"

W.; 30°08'30" N.; 88°05'12" W.; 30°08'30" N.; 88°08'12" W.;
Size: 4.8 nmi².
Depth: Average 14 meters.
Primary use: Dredged materials.
Period of use: Continuing use.
Restrictions: Disposal shall be limited to dredged materials which meet the Ocean Dumping Criteria.
(39) Gulfport, Mississippi Dredged Material Disposal Sites—Region IV
Location: Eastern Site 30°11'10" N.; 88°58'24" W.; 30°11'12" N.; 88°57'30" W.; 30°07'36" N.; 88°54'24" W.; 30°07'24" N.; 88°54'48" W.;
Western Site 30°12'00" N.; 89°00'30" W.; 30°12'00" N.; 88°59'30" W.; 30°11'00" N.; 89°00'00" W.; 30°07'00" N.; 88°56'30" W.; 30°06'36" N.; 88°57'00" W.; 30°10'30" N.; 89°00'36" W.
Size: Eastern—2.47 nmi². Western—5.2 nmi².
Depth: Eastern—9.1 m Western—8.2m.
Primary use: Both sites—Dredged material.
Period of use: Both sites—Continuing use.
Restrictions: Disposal shall be limited to dredged materials which meet the Ocean Dumping Criteria.

[FR Doc. 87-18095 Filed 8-7-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 27

[CGD 86-025]

Equipment Standards for Uninspected Fish Processing Vessels; Correction

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: This document corrects the address and procedure for ordering Navigation and Vessel Inspection Circular (NVIC) 5-86, "Voluntary Standards for U.S. Uninspected Commercial Fishing Vessels" previously published in the **Federal Register** July 9, 1987 (52 FR 25890)

ADDRESSES: The address appearing on page 25890, in the second column, paragraph 2, is changed to read as follows:

Navigation and Vessel Inspection Circular (NVIC) 5-86 will be made available for examination or copying between the same hours and at the same location as noted above. Additionally, NVIC 5-86 is available at local U.S. Coast Guard Marine Inspection and Marine Safety Offices or through the Marine Safety Center in Washington, DC. If ordering through the Marine Safety Center include the NVIC number (NVIC 5-86) along with a check or money order, in the amount of $11.00 payable to the "Treasury of the United States," to Commanding Officer, Marine Safety Center, 2100 Second Street, SW., Washington, DC 20593-0001, ATTN: NVICs.

FOR FURTHER INFORMATION CONTACT: LCDR William J. Morani, Jr., (202)267-1055.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

August 5, 1987.

[FR Doc. 87-18133 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

49 CFR Part 580

[Docket Number 87-09: Notice 2]

Odometer Disclosure Requirements; Extension of Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice extends the comment period on the notice of proposed rulemaking published on July 17, 1987 regarding odometer disclosure requirements. The comment period was scheduled to close on September 15, 1987. NHTSA has received a petition from the American Association of Motor Vehicle Administrators (AAMVA) asking that the comment period be extended so that a unified response can be submitted. NHTSA has concluded that a response representing the comments and concerns of all states would be useful and that NHTSA should have the opportunity to consider such data before proceeding with this rulemaking. Accordingly, the comment period for the notice of proposed rulemaking is extended for 15 days.

DATE: The comment period for Docket No. 87-09; Notice 1 is extended so that it closes on September 30, 1987.

ADDRESS: Written comments should refer to Docket No. 87-09, Notice 1 and should be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are 8:00 a.m. to 4:00 p.m.]

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION: NHTSA published a notice of proposed rulemaking regarding odometer disclosure requirements at 52 FR 27022, July 17, 1987. The comment period for that proposal was scheduled to close on September 15, 1987.

NHTSA has received a petition from the American Association of Motor Vehicle Administrators (AAMVA) asking that the comment period be extended for 30 days. The reason offered for the extension was that using the procedural approach AAMVA laid out to analyze and develop a unified response, there would not be sufficient time to meet the closing date for comments.

NHTSA has carefully considered this request, bearing in mind the agency's attempt to inform all those involved in selling and leasing motor vehicles and the AAMVA since the enactment of the Truth in Mileage Act about the new law; that the provisions of the Act concerning the title of a vehicle and the disclosure of a vehicle's mileage become effective on April 29, 1989; and that these provisions will result in changes to many state motor vehicle titling laws and title forms. A unified response might yield some significant comments and NHTSA wants the opportunity to examine this information before proceeding with this rulemaking. To give NHTSA this opportunity and to allow the interested public more time to analyze the information which is currently available, NHTSA has decided to extend the comment period for this rulemaking an additional 15 days.

Erika Z. Jones,

Chief Counsel.

August 5, 1987.

[FR Doc. 87-18069 Filed 8-5-87; 1:10 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 52, No. 153
Monday, August 10, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

State of Wisconsin Nonpoint Source Water Pollution Abatement Program; Determination of Primary Purpose of Program Payments and Benefits for Consideration as Excludable From Income

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Determination.

SUMMARY: The Secretary of Agriculture has determined that all state payments made under the State of Wisconsin Nonpoint Source Water Pollution Abatement Program have been made primarily for the purpose of soil and water conservation, and protecting or restoring the environment. This determination is in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The determination permits recipients of these payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Director, Bureau of Water Grants, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707, (608) 266–7555; or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, (212) 382–1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Service Code of 1954, as amended by the Revenue Act of 1978 and the Technical Correction Act of 1979, 26 U.S.C. 126, provides that certain payments made to persons under state conservation programs may be excluded from the recipient's gross income for federal tax purposes if the Secretary of Agriculture determines that payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife . . . ." The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR Part 14 and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that the payments made to a person under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

The State of Wisconsin Nonpoint Source Water Pollution Abatement Program is authorized by s. 144.25, Wisconsin Statutes. It is funded through annual state appropriations to provide financial assistance to municipalities and individual landowners or operators to implement best management practices to control nonpoint sources of water pollution in conformance with approved areawide water quality management plans. Cost-share payments accomplish one or more of the following purposes:

1. To conserve soil and water by reducing runoff and the amount of sediment in runoff; and
2. To protect or restore the environment by preventing or reducing pollutants generated from nonpoint sources which discharge to surface or groundwater resources.

Procedural Matters

The Department of Agriculture has classified this determination as "not major" in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1. The Secretary has determined that these program provisions will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in cost to consumers, individuals, industries, government agencies, or geographic regions; and will not cause significant adverse effects 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.

A State of Wisconsin Nonpoint Source Water Pollution Abatement Program "Primary Purpose Determination for Federal Tax Purposes, Record of Decision," has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013; or the Director, Bureau of Water Grants, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707, (608) 266–7555.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures of the State of Wisconsin Nonpoint Source Water Pollution Abatement Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that payments made and benefits provided under this program are for purposes of soil and water conservation, protecting or restoring the environment, or providing wildlife habitat. Subject to further determination by the Secretary of the Treasury, this determination permits property owners to exclude from gross income, for federal income tax purposes, payments made and benefits resulting from the Wisconsin Nonpoint Source Water Pollution Abatement Program.

Signed at Washington, DC, on August 4, 1987.

Richard E. Lyng,

Secretary.

[FR Doc. 87–18123 Filed 8–7–87; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Quarterly Report on Working Capital and Long-Term Dept

Form Number: Agency—QFR-105 (R–2); OMB—0607–0435

Type of Request: Extension of a currently approved collection

Burden: 220 respondents; 660 reporting hours
Needs and Uses: Working capital posistions are a fundamental aspect of business financial conditions. The Bureau of Economic Analysis uses these data in the gross national product system of accounts and for benchmarking its monthly estimates of corporate inventories. Also, the Federal Reserve System relies upon these data for direct imput into calculation of the flow of funds accounts and industry analysis. In addition, numerous private research organizations depend upon this series to conduct corporate financial studies
Affected Public: Businesses or other for profit institutions
Frequency: Quarterly
Respondent's Obligation: Voluntary
OMB Desk Officer: Francine Picoult 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: August 5, 1987

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 87-18120 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-307-701]

Initiation of Antidumping Duty Investigation; Certain Electrical Conductor Aluminum Redraw Rod from Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of certain electrical conductor aluminum redraw rod (redraw rod) from Venezuela are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of ths action so that it may determine whether imports of redraw rod from Venezuela cause, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 28, 1987, and we will make ours on or before December 21, 1987.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Martin of Jessica Wasserman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2830 or 377-1442.

SUPPLEMENTARY INFORMATION:

The Petition

On July 14, 1987, we received a petition filed in proper form by the Southwire Company on behalf of the U.S. industry producing redraw rod. In compliance with the filing requirements of 19 CFR 353.36, the petition alleges that imports of redraw rod from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that such imports cause of threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on redraw rod and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether redraw rod from Venezuela is being, or is likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination on or before December 21, 1987.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedules of the United States Annotated* ("*TSUSA*") item numbers and the appropriate HS item numbers with our product description on a test basis, pending Congressional approval. As with the *TSUSA*, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the *TSUSA* item number(s) in all new petitions filed with the Department. A reference copy of the proposed HS schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all customs offices have reference copies and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The product covered by this investigation is certain electrical conductor aluminum redraw rod from Venezuela which is wrought rod of aluminum which is electrically conductive and contains not less than 99 percent aluminum by weight as provided for in *TSUSA* item numbers 618.520 and 618.1540. This product is currently classifiable under HS item numbers 7604.10.30 and 7604.29.30.

United States Price and Foreign Market Value

Petitioner based United States price on Census Bureau import statistics (IM-146) for redraw rod imported from Venezuela. Census Bureau statistics report the F.A.S. value of the imported goods. Petitioner based foreign market value on two Venezuelan producer's price quotes. Based on a comparison of United States price and foreign market value, petitioner alleged dumping margins of 15 to 33 percent. After analysis of petitioner's allegations and supporting data, we conclude that a formal investigation is warranted.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the express

written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 28, 1987, whether there is a reasonable indication that imports of redraw rod from Venezuela materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 3, 1987.

[FR Doc. 87-18050 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-702]

Initiation of Countervailing Duty Investigation: Certain Electrical Conductor Aluminum Redraw Rod From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Venezuela of certain electrical conductor aluminum redraw rod ("redraw rod"), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the U.S. countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of redraw rod from Venezuela cause or threaten material injury to a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 28, 1987, and we will make ours on or before October 7, 1987.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3174 or 377-2438.

SUPPLEMENTARY INFORMATION:

The Petition

On July 14, 1987, we received a petition filed in proper form by the Southwire Company on behalf of the U.S. industry producing redraw rod. In compliance with the filing requirements of 19 CFR 355.26, the petition alleges that manufacturers, producers, or exporters in Venezuela of redraw rod receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), and that such imports cause or threaten material injury to a U.S. industry.

Since Venezuela is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Venezuela cause or threaten material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on redraw rod and have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Venezuela of redraw rod, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the Act. If our investigation proceeds normally, we will make our preliminary determination on or before October 7, 1987.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedules of the United States Annotated* ("*TSUSA*") item numbers and the appropriate HS item numbers with our product description on a test basis, pending Congressional approval. As with the *TSUSA*, the HS item numbers are provided for convenience and Customs purposes. The written descrioptions remain dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the *TSUSA* item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The product covered by this investigation is certain electrical conductor aluminum redraw rod, which is wrought rod of aluminum which is electrically conductive and contains not less than 99 percent aluminum by weight as provided for in *TSUSA* item numbers 618.1520 and 618.1540. This product is currently classifiable under HS item numbers 7604.10.30 and 6704.29.30.

Allegations of Subsidies

The petition lists a number of practices by the Government of Venezuela (GOV) which allegedly confer subsidies on manufacturers, producers, or exporters in Venezuela of redraw rod. We are initiating an investigation on the following programs:

- Government Financial Assistance on Terms Inconsistent with Commercial Considerations

—Government Loans on Terms Inconsistent with Commerical Considerations
—Government Loan Guarantees
—Assumption of Hard Currency Debt
—Tax Contributions to Cover Debt Service Costs

- Export Subsidies

—Perferential Export Financing (FINEXPO)
—Export Certificates
—Multiple Exchange Rates
—Perferential Pricing for Inputs used to Produce Exports

- Sales Tax Exemptions
- Import Duty Reductions
- Perferential Tax Incentives

We are not initiating an investigation on the following program:

Government Equity Infusions

Petitioner alleges that the GOV is expected to provide capital to a group headed by Suramericana de Aleaciones Laminados, C.A. (SURAL), a private company, to fund a new smelter, and that any GOV equity infusions into its aluminum products industry are inconsistent with commercial considerations.This new smelter would supply SURAL's aluminum rod and wire plant. In order for the Department to

investigate an allegation on equity, the petition must contain: (1) Evidence of government equity participation, and (2) a showing that such participation may be on terms inconsistent with commercial considerations.

Although the petition contains information that the GOV, in conjunction with Austrian concerns, plans to invest in a new smelter project for SURAL, the petition does not provide any evidence that SURAL, or even the aluminum industry, has been losing money or is otherwise unattractive to private investors. Since petitioner has not provided any information that GOV equity investments in SURAL would be inconsistent with commercial considerations, we are not initiating an investigation on this allegation.

As a standard practice in our countervailing duty questionnaires, we ask for information on the ownership structure of each firm and for financial statements. If the information provided in response to these standard questions shows that the GOV holds equity in SURAL, and that SURAL has incurred financial losses, we will examine this issue further.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided that it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the express written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determined by August 28, 1987, whether there is a reasonable indication that imports of redraw rod from Venezuela cause or threaten material injury to a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 702(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 3, 1987.

[FR Doc. 87-18051 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

Senior Executive Service; Membership of General Performance Review Board

The purpose of the Limited Performance Review Board (LPRB) is to review performance agreements, appraisals, ratings, and recommended actions pertaining to employees in the Senior Executive Service and to make appropriate recommendations to the Director of NBS concerning such matters in such a manner as will assure the fair and equitable treatment of senior executives. The LPRB will perform its review functions for all NBS senior executives who are members of the NBS Executive Board (except the NBS Deputy Director) and those who are members of the General Performance Review Board.

The following individual has been newly appointed by the Director of NBS as Chairman, LPRB.

Dr. Burton H. Colvin, Director for Academic Affairs, Office of the Director, National Bureau of Standards, Gaithersburg, MD 20899, Expiration of term: December 31, 1988

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabelth W. Stroud, Chief, Personnel Division, National Bureau of Standards, Gaithersburg, MD 20899, telephone 301-975-3003.

Date: August 4, 1987.

Ernest Ambler,

Director.

[FR Doc. 87-18052 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-13-M

[Notice 1]

National Fire Codes; Request for Comments on NFPA Technical Committee Reports

AGENCY: National Bureau of Standards, DOC.

ACTION: Notice of request for comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its Fall Meeting in November or its Annual Meeting in May, the NFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1988 Annual Meeting. The publication of this notice by the National Bureau of Standards (NBS) on behalf of NFPA is being undertaken as a public service; NBS does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Technical Committee Reports are available for distribution on July 31, 1987. Comments received on or before October 9, 1987, will be considered by the NFPA before final action is taken on the proposals.

ADDRESS: The 1988 Annual Technical Committee Reports are available from NFPA, Publications Department, Batterymarch Park, Quincy, Massachusetts 02269. (The single copy price is $5.00 to cover postage and handling.) Comments on the reports should be submitted to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comment on its Technical Committee Reports

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, Batterymarch Park, Quincy, Massachusetts 02269. Commentors may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before October 9, 1987, will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical

Committee Documentation by March 25, 1988, prior to the Annual Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each commentor. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Annual Meeting, May 16–19, 1988, at the Los Angeles Convention Center, Los Angeles, California, by NFPA members.

Ernest Ambler,

Director

Date: July 27, 1987.

1988 Annual Meeting Technical Committee Reports

Documents and the action proposed on each document follow:

Action Code is: C—Complete Revision; P—Partial Amendments; N—New; T—Tentative Adoption; R—Reconfirmation; and W—Withdrawal.

NEPA No.	Title	Action
16A	Installation of Closed-Head Foam-Water Sprinkler Systems.	P.
21	Steam Fire Pumps, Operation and Maintenance of.	W.
26	Valves Controlling Water Supplies for Fire Protection Supervision of.	P.
36	Solvent Extraction Plants	P.
52	CNG Systems on Motor Vehicles and Fueling.	P.
54	Systems National Fuel Gas Code.	P.
70E	Electrical Safety Requirements for Employee Work Places.	P.
77	Static Electricity	P.
120	Coal Preparation Plants	R.
124	Underground Diesel Mining Equipment.	N.
129	Fire Hydrants, Uniform Marking of.	P.
395	Flammable and Combustible Liquids on Farms & Isolated Construction Projects.	P.
410	Aircraft Systems Maintenance	R.
654	Plastics Industry, Prevention of Dust Explosions in.	R.
655	Sulfur Fires and Explosions, Prevention of.	R.
802	Nuclear Reactors	P.
803	Light Water Nuclear Power Plants.	P.
906M	Fire Incident Field Notes	N.
907M	Investigation of Fires of Electrical Origin.	C.
1124	Fireworks Manufacture Storage & Transportation of.	P.
1125	Manufacture of Model Rocket Engines.	N.
1914 (existing 1904).	Testing Fire Department Aerial Devices.	C.
1973	Protective Gloves for Fire Fighters.	R.
1982	Personal Alert Safety Systems	R.

[FR Doc 87-18076 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-13-M

[Notice 2]

National Fire Codes; Request for Proposals for Revision of Standards

AGENCY: National Bureau of Standards, DOC.

ACTION: Notice of request for proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards and requests proposals from the public to amend existing NFPA fire safety standards. The propose of this request is to increase public participation in the system used by NFPA to develop its standards. The publication of this notice of request for proposals by the National Bureau of Standards (NBS) on behalf of NFPA is being undertaken as a public service; NBS does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESS: Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards that are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, Batterymarch Park, Quincy, Massachusetts 02269. Proposals should be submitted on forms available from the NFPA Standards Administration Office.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5:00 P.M. E.D.S.T. on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

At a later date, each NFPA Technical Committee will issue a Technical Committee Report which will include a copy of written proposals that have been received and an account of their disposition by the NFPA Committee. Each person who has submitted a written proposal will receive a copy of the report.

Ernest Ambler,

Director.

Date: August 4, 1987.

NFPA No.	Title	Prop. Closing Date
NFPA 12-1985	Carbon Dioxide	July 17, 1987.
NFPA 12A-1987	Halon 1301	Jan. 15, 1988.
NFPA 12B-1985	Halon 1211	Jan. 15, 1988.
NFPA 13-1987	Insatallation of Sprinkler Systems	July 17, 1987.
NFPA 13D-1984	Sprinkler Systems for One- & Two-Family Dwellings & Mobile Homes	July 17, 1987.
NFPA 13E-1984	Fire Department Operations in Properties Protected by Sprinkler and Standpipe Systems	July 17, 1987.
NFPA 14-1986	Installation of Standpipe & Hose Systems	July 15, 1988
Proposed:		
NFPA 14A	Testing, Inspection & Maintenance of Standpipe Systems	Aug. 17, 1987
NFPA 17-1985	Dry Chemical Extinguishing Systems	Jan. 15, 1988.
NFPA 17A-1986	Liquid Agent Extinguishing Systems	Jan. 15, 1988
NFPA 20-1987	Centrifugal Fire Pumps	Jan. 15, 1988.
NFPA 31-1987	Oil Burning Equipment	July 15, 1988.
NFPA 32-1985	Drycleaning Plants	July 15, 1988.
NFPA 33-1985	Spray Application Using Flammable & Combustible Materials	July 17, 1987.
NFPA 34-1987	Dip Tanks Containing Flammable & Combustible Liquids	July 17, 1987.
NFPA 45-1986	Fire Protection for Laboratories Using Chemicals	Open.
NFPA 50A-1984	Gaseous Hydrogen Systems at Consumer Sites	May 29, 1987
NFPA 50B-1985	Liquefied Hydrogen Systems at Consumer Sites	May 29, 1987.
NFPA 51B-1984	Acetylene Cylinder Charging Plants	May 29, 1987.

NFPA No.	Title	Prop. Closing Date
NFPA 58-1986	Liquefied Petroleum Gases	Sept. 25, 1987.
NFPA 59-1984	Liquefied Petroleum Gases at Utility Gas Plants	Sept. 25, 1987.
NFPA 61A-1984	Manufactuiring & Handling Starch	July 17, 1987.
NFPA 61C-1984	Fire & Dust Explosions in Feed Mills	July 17, 1987.
NFPA 61D-1984	Fire & Dust Explosions in the Milling of Agriculture Commodities for Human Consumption	July 17, 1987.
NFPA 70-1987	National Electric Code	Nov. 6, 1987.
NFPA 72A-1987	Local Protective Signaling Systems	July 15, 1988.
NFPA 72B-1986	Auxiliary Protective Signaling Systems	July 15, 1988.
NFPA 72C-1986	Remote Station Protective Signaling Systems	July 15, 1988.
NFPA 72D-1986	Proprietary Protective Signaling System	July 15, 1988.
NFPA 72F-1985	Emergency Voice/Alarm Communication Systems	July 17, 1987.
NFPA 72G-1985	Notification Appliances for Protective Signaling Systems	July 17, 1987.
NFPA 74-1984	Household Fire Warning Equipment	July 17, 1987.
NFPA 78-1986	Lighting Protection Code	Jan. 15, 1988.
NFPA 80-1986	Fire Doors & Windows	July 17, 1987.
Proposed:		
NFPA 85H	Prevention of Combustion Hazards in Atmospheric Fluidized Bed Combustion Systems	July 17, 1987.
Proposed:		
NFPA 851	Stoker Operations	July 17, 1987.
NFPA 90A-1985	Air Conditioning & Ventilating Systems	July 17, 1987.
NFPA 90B-1984	Warm Air Hearing & Air Conditioning Systems	July 17, 1987.
NFPA 91-1983	Blower & Exhaust Systems for Dust, Stock & Vapor Removal or Conveying	Jan. 15, 1988.
NFPA 96-1984	Removal of Smoke & Grease-Laden Vapors from Commercial Cooking Equipment	Jan. 13, 1989.
NFPA 99-1987	Health Care Facilities	July 15, 1988.
NFPA 105-1985	Smoke & Draft Control Door Assemblies	July 17, 1987.
NFPA 231E-1984	Storage of Baled Cotton	July 17, 1987.
Proposed:		
NFPA 264	Heat Release Rates Using Oxygen Consumption Calorimeter	July 17, 1987.
Proposed:		
NFPA 298	Chemicals & Wildland Fire Control	July 17, 1987.
Proposed:		
NFPA 299	Fire Hazard Assessment & Development Standards for Wildland Fire Areas	July 17, 1987.
NFPA 302-1984	Motor Craft	July 17, 1987.
NFPA 321-1987	Basic Classification of Flammable & Combustible Liquids	Jan. 15, 1988.
NFPA 325M-1984	Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids	Jan. 15, 1988.
NFPA 327-1987	Cleaning or Safeguarding Small Tanks and Containers	July 14, 1989.
NFPA 328-1987	Control of Flammable & Combustible Liquids and Gases in Manholes & Sewers	July 14, 1989.
NFPA 329-1987	Underground Leakage of Flammable & Combustible Liquids	July 14, 1989.
NFPA 385-1985	Tank Vehicles for Flammable and Combustible Liquids	July 15, 1988.
NFPA 386-1985	Portable Shipping Tanks	July 15, 1988.
NFPA 402M-1984	Aircraft Rescue Fire Fighting Procedures	Oct. 1, 1987.
NFPA 407-1985	Aircraft Fuel Servicing	Oct. 1, 1987.
NFPA 408-1984	Aircraft Hand Fire Extinguishers	Oct. 1, 1987.
NFPA 409-1985	Aircraft Hangers	Oct. 1, 1987.
NFPA 414-1984	Aircraft Rescue & Fire Fighting Vehicles	Oct. 1, 1987.
NFPA 422-1984	Aircraft Fire Investigators Manual	Oct. 1, 1987.
NFPA 423-1983	Construction & Protection of Aircraft Engine Test Facilities	Oct. 2, 1987.
Proposed:		
NFPA 471	Professional Competence for Hazardous Materials Response Personnel	July 17, 1987.
Proposed:		
NFPA 472	Hazardous Materials Management	July 17, 1987.
Proposed:		
NFPA 473	Hazardous Materials Incident Management	July 17, 1987.
NFPA 496-1986	Purged & Pressurized Enclosures for Electrical Equipment in Hazardous Locations	Sept. 1, 1987.
NFPA 512-1984	Truck Fire Protection	Jan. 15, 1988.
NFPA 513-1984	Motor Freight Terminals	Jan. 15, 1988.
NFPA 704-1985	Identification of Fire Hazards of Materials	July 15, 1988.
Proposed:		
NFPA 820	Waste Water Treatment Plants	July 17, 1987.
Proposed:		
NFPA 906M	Fire Incident Field Notes	May 8, 1987.
NFPA 910-1985	Protection of Library Collections from Fire	Jan. 1, 1989.
NFPA 911-1985	Protection of Museum Collections from Fire	Jan. 1, 1989.
NFPA 1123-1982	Public Display of Fireworks	Oct. 1, 1987.
NFPA 1201-1984	Organization for Fire Services	Oct. 16, 1987.
NFPA 1202-1982	Organization of a Fire Department	Oct. 16, 1987.
NFPA 1231-1984	Water Supplies for Suburban & Rural Fire Fighting	July 17, 1987.
NFPA 1301-1984	Public Fire Prevention Criteria	Oct. 16, 1987.
NFPA 1931-1984	Fire Department Ground Ladders	Open.
NFPA 1932-1984	Service Testing of Fire Department Ground Ladders	Open.

[FR Doc. 87-18077 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Bycatch Committee will convene a public meeting, August 18–20, 1987, at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, WA, to review information on various management approaches for bycatch species in the Gulf of Alaska and Bering Sea/Aleutian Islands. The public meeting will convene at 9 a.m. on August 18 in Room 2079, Building 4.

FOR FURTHER INFORMATION CONTACT: Steve Davis, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274–4563.

Date: August 3, 1987.

Henry R. Beasley,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 87-18065 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlanta Fishery Management Council and its Committees will convene separate public meetings with a closed personnel session (not open to the public), August 31, 1987 through September 2, 1987, at the Council's Headquarters (address below), to discuss snapper/grouper, large pelagics, king and Spanish mackerel, habitat and environmental protection, as well as other fishery management business. A detailed agenda will be available to the public on or about August 21, 1987.

FOR FURTHER INFORMATION CONTACT: Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Date: August 4, 1987.

Henry R. Beasley,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 87-18066 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-22-M

Permits; Pacific Coast Groundfish Fishery

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

ACTION: Notice of issuance of experimental fishing permits.

SUMMARY: This notice announces the issuance of eighty-six experimental fishing permits (EFPs) to U.S. fishermen to harvest soupfin sharks and other shark species with gill nets in the exclusive economic zone (EEZ) north of 38° N. latitude. The permits authorize the use of experimental fishing gear to harvest groundfish which is otherwise prohibited by Federal regulations. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations.

DATES: 85 permits effective from July 1 to October 31, 1987, 1 permit effective from July 15, 1987 to July 14, 1988.

ADDRESS: A copy of the permits may be obtained from Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150.

SUPPLEMENTARY INFORMATION: The FMP and its implementing regulations at 50 CFR Part 663 specify that EFPs may be issued to authorize fishing which is otherwise prohibited by the FMP and its regulations. The procedures for issuing EFPs are contained in the regulations at 50 CFR 663.10.

Eighty-six EFP applications to harvest sharks using gill nets in the EEZ north of 38° N. latitude were received by the NMFS Northwest Regional Office. Current groundfish regulations at 50 CFR 663.26 do not authorize the use of drift gillnets or set nets (anchored gillnets) north of 38° N. latitude to harvest groundfish. The Federal groundfish management unit includes soupfin, leopard, and spiny dogfish sharks. All of the applicants requested EFPs to harvest soupfin, leopard, and spiny dogfish sharks taken incidentally in drift gill nets in a fishery that targets on thresher shark, a species that is not managed under the FMP, but by the adjacent States. One applicant also requested an EFP to target on soupfin sharks using set nets. A notice acknowledging receipt of the applications, describing the proposals, and requesting public comment was published in the **Federal Register** on June 22, 1987 (52 FR 23489). Two public comments were received, both of which opposed issuance of the permits because of concerns about potential marine mammal and seabird entanglement in gill nets. The applications were considered by the Pacific Fishery Management Council (Council), including the directors of the fishery management agencies of Washington, Oregon, California, and Idaho, during a telephone conference call meeting on June 22, 1987. The Council recommended that NMFS issue the EFPs with appropriate restrictions and limitations so that information on the experimental fishery could be obtained. The NMFS Regional Director, after having considered all factors including concerns for potential marine mammal and seabird entanglement in this experimental gear, issued the EFPs as recommended under the provisions of 50 CFR 663.10.

Eighty-five EFPs were issued that authorize harvest of soupfin, leopard, and spiny dogfish sharks taken incidentally in drift gill nets in State-permitted fisheries targeting on thresher shark from July 1, 1987, to October 31, 1987, in the EEZ off the coasts of Washington and Oregon. Under the terms and conditions of the permits, each vessel must have an experimental fishing permit issued by either Washington or Oregon which restricts the fishery to at least five nautical miles offshore, requires a minimum sixteen inch mesh, and restricts the vessel to the use of one net not to exceed 1000 fathoms in length. Permittees are required to maintain detailed logs on the fishing operation and allow an observer to accompany the vessel if so requested.

One additional EFP authorizes the experimental use of set nets to fish for soupfin sharks with an incidental catch of other groundfish species in the EEZ north of 42° N. latitude. The permit is valid for one specified vessel based in Oregon, from July 15, 1987, to July 14, 1988. Under the terms and conditions of the EFP, sets may not be made in waters shallower than thirty fathoms nor closer than five nautical miles to shore. The nets must have a minimum nine-inch mesh webbing and no more than 400 fathoms of net can be fished simultaneously. The permittee is required to maintain detailed logs on the fishing operation and allow an observer to accompany the vessel if so requested.

Further details or a copy of the permits may be obtained from the NMFS Regional Director at the above address.

(16 U.S.C. 1801 *et seq.)*

Dated: August 5, 1987.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-18130 Filed 8-7-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987 Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions and deletions to procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1987 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before: September 9, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1154.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure commodities and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and the service to Procurement List 1987, November 3, 1986 (51 FR 39945).

Commodities

Flashlight
6230-00-781-3671
Sewing Kit
8315-01-222-0679

Service

Janitorial/Custodial, U.S. Department of Justice, Northwestern Bank Building, 1405 Eye Street, NW., Washington, D.C.

Deletions

It is proposed to delete the following services from Procurement List 1987, November 3, 1986 (51 FR 39945):

Services

Commissary Shelf Stocking and Custodial Service, Randolph AFB, Texas

Grounds Maintenance, U.S. Customs House, 6 World Trade Center, New York, New York

E.R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 87-18109 Filed 8-7-87; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1987 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1987 a commodity to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 9, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On January 20, May 22, and June 5, 1987, the Committee for Purchase for the Blind and Other Severely Handicapped published notices (52 FR 2145, 19376, and 21344) of additions to Procurement List 1987, November 3, 1986 (51 FR 39945).

After consideration of the relevant matter presented, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity and services listed.

c. The action will result in authorizing small entities to provide the commodity and services procured by the Government.

Accordingly, the following commodity and services are hereby added to Procurement List 1987:

Commodity

Test Set, Lead
6625-01-121-0510
(50% of the Government's Requirements)

Service

Commissary Warehouse Service, Cannon Air Force Base, New Mexico
Commissary Warehouse Service, McConnell Air Force Base, Kansas
Janitorial Service, Federal Records Center, 9700 Page Boulevard, Overland, Missouri

C. W. Fletcher,
Executive Director.

[FR Doc. 87-18108 Filed 8-7-87; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87-23-NG]

Order Granting Blanket Authorization To Import Natural Gas From Canada; Chevron Natural Gas Service, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Chevron Natural Gas Services, Inc. (Chevron Gas), blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-23-NG authorizes Chevron Gas to import up to 73 Bcf over a two-year period.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 4, 1987.

Constance L. Buckley,
Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-18131 Filed 8-7-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3245-4]

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 EPA has 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 ICRs that follow are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 (FTS 382-2712) or Jackie Rivers, (202) 382-2740 (FTS 382-2740).

Office of Air and Radiation

Title: NSPS Subpart HH—Information Requirements for the Lime Manufacturing Industry (EPA ICR #1167). (This is a renewal without change of a currently approved collection.)

Abstract: Lime manufacturing plants must notify EPA of the date of construction or reconstruction, start-up, shutdown, and malfunction; and of the results of each performance test. Owners/operators not using wet scrubbers must install, calibrate, maintain, and operate a continuous monitoring system to monitor opacity. Facilities using multiple exhaust fabric filters may make daily Method 9 opacity observations in lieu of a continuous monitoring system. Quarterly excess emission reports (semiannual, if Method 9 is used) are required. The States and/or EPA use the data to ensure compliance with the standards, to target inspections, and, when necessary, as evidence in court.

Respondents: Owners and operators of lime manufacturing plants.

Estimated Annual Burden: 2408 hours.

Office of Pesticides and Toxic Substances

Title: Affirmation of Non-Multinational Status (EPA ICR #0612). (This is a renewal without change of a currently cleared collection.)

Abstract: Anyone seeking to obtain registrant-submitted health and safety data under FIFRA must meet the requirements of FIFRA Section 19(g): that is, they must not be affiliated with a foreign or multinational pesticide producer and must not deliver the data to such a producer. By signing the affirmation from, requestors certify that they meet the requirements.

Respondents: Anyone seeking certain health and safety data available under FIFRA.

Estimated Annual Burden: 150 hours.

* * * * * * *

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0983, NSPS for Petroleum Refinery Industry (Subpart GGG), was approved 7/23/87 (OMB #2060-0067; expires 7/31/90).

* * * * * * *

Send comments on the above abstract(s) to:

Patricia Minami, PM-223, U.S. Environmental Protection Agency, Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Nicolas Garcia (ICR 1167) and Timothy Hunt (ICR 0612), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20503

Date: August 3, 1987.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 87-18096 Filed 8-7-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3244-7]

Performance Evaluation Reports for Fiscal Year 1986 Section 105 Grants; Missouri, Kansas, Iowa, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to conduct yearly performance evaluations of the progress of the approved State-EPA Agreements. EPA's regulations (40 CFR 56.7) require that the Agency make available the evaluation reports. EPA has conducted reports on the Missouri Department of Natural Resources, Nebraska Department of Environmental Control, Iowa Department of Natural Resources, and Kansas Department of Health and Environment. These reports were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act.

ADDRESSES: Copies of the reports are available for public inspection at the EPA's Region VII Office, 726 Minnesota Avenue, Kansas City, Kansas 66101, in the Air and Toxics Division.

FOR FURTHER INFORMATION CONTACT: Carol D. LeValley at (913) 236-2893 (FTS 757-2893).

Date: July 28, 1987.

Morris Kay,

Regional Administrator.

[FR Doc. 87-18098 Filed 8-7-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3245-2]

Hazardous Waste; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, Research Triangle Institute (RTI), information which has been, or will be, submitted to EPA under section 3007 of the Resource Conservation and Recovery Act (RCRA), including subsequent amendments through 1984. RTI is assisting the EPA in the development of air emission standards for the treatment, storage, and disposal of hazardous wastes. RTI will need access to the data submitted to EPA under section 3007 of RCRA for the purpose of listing and delisting hazardous wastes in the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes and pigments, coke by-products, wood preserving, rubber processing, and chlorinated organics manufacturing industries and data submitted for the purpose of documenting the applicability and effectiveness of treatment technologies for best demonstrated available technology (BDAT) regulations. Some of the information may have a claim of business confidentiality.

DATE: The transfer of confidential data submitted to EPA will occur no sooner than August 17, 1987.

ADDRESS: Comments should be sent to Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202)

382–4670. For technical information, contact Mr. James F. Durham, Office of Air Quality Planning and Standards, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (919) 541–5672.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

In November 1984, Congress enacted amendments to RCRA requiring the Agency to investigate the magnitude of the area (noncombustion) source air emissions from the treatment, storage, and disposal of hazardous wastes and to develop standards for monitoring and control, as needed to protect human health and the environment. A major portion of this program involves identifying the generators and managers of these wastes, the types of wastes being generated and managed, and the way the wastes are treated, stored, or disposed.

Under EPA Contract No. 68–02–4326, RTI will assist the Office of Air Quality Planning and Standards in estimating emissions from the treatment, storage, and disposal of hazardous wastes.

The information being transferred to RTI was previously collected by other Agency contractors for the purpose of listing and delisting hazardous wastes in the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes and pigments, coke by-products, wood preserving, rubber processing, and chlorinated organics manufacturing industries and for the purpose of documenting the applicability and effectiveness of treatment technologies for BDAT regulations. Some of the information being transferred may have been, or will be, claimed as confidential business information (CBI).

In accordance with 40 CFR 2.305(h), EPA has determined that RTI requires access to CBI submitted to EPA under section 3007 of RCRA to perform work satisfactorily under the above-noted contract. The EPA is issuing this notice to inform all submitters of information under section 3007 of RCRA that EPA may transfer to this firm, on a need-to-know basis, CBI specific to the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes and pigments, coke by-products, wood preserving, rubber processing, and chlorinated organics manufacturing industries and CBI submitted for BDAT regulations. Upon completing their use of material submitted, RTI will return all such materials to the EPA.

RTI has been authorized to have access to RCRA CBI under the EPA "Contractor Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA has approved the security plan of its contractor and will inspect the facility and approve it prior to RCRA CBI being transmitted to the contractor. Personnel from this firm will be required to sign nondisclosure agreements and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contract Requirements Manual.

Dated: June 9, 1987.

J. W. McCraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 87–18099 Filed 8–7–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3235–5]

Office of Policy, Planning and Evaluation; OPPE/Workshop; Weight of Evidence/Hazard Identification for Non-Cancer Health Effects; Meeting

The following meeting will be sponsored by the U.S. Environmental Protection Agency (US EPA), Office of Policy, Planning and Evaluation (OPPE) and will be open to the public for observation limited by the space available:

Date: August 26–28, 1987

Time: 8:00 a.m. to 5 p.m., August 26; 8:00 a.m. to 5 p.m., August 27; 8:00 a.m. to 12 noon, August 28.

Place: Old Town Holiday Inn, Alexandria, Virginia 22307

Purpose: To assemble expert technical personnel to develop weight-of-evidence schemes for hazard identification for different risk assessments on non-cancerous health effects. Interested members of the public are invited to attend.

Additional information may be obtained from: Susan Perlin, OPPE, US EPA, 401 M Street SW., Washington DC 20460. Telephones: FTS: 382–5869; Commercial: 202–382–5869.

Craig R. McCormack,

Pharmacologist, Science-Policy Integration Branch, Office of Policy, Planning and Evaluation.

[FR Doc. 87–16535 Filed 8–7–87; 8:45 am]

BILLING CODE 6560–50–M

[ECAO–R–150; ECAO–R–183; FRL–3243–5]

Superfund Program; Indoor Air Quality Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Availability of Report to Congress.

SUMMARY: On July 2, 1987, the report, EPA Indoor Air Quality Implementation Plan, was submitted to Congress as required under section 403(d) of the Superfund Amendments and Reauthorization Act of 1986. EPA is now making the report publicly available.

ADDRESSES: Interested parties may purchase copies of the report from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. The report titles, EPA and NTIS publication numbers, and approximate costs are as follows:

- EPA Indoor Air Quality Implementation Plan, EPA–600/8–87/031, PB87–210720, $11.95.
- Appendix A: Preliminary Indoor Air Pollution Information Assessment, EPA-600/8–87/014, PB87–210738, $30.95.
- Appendix B: FY 87 Indoor Air Research Program, EPA–600/8–87/032, PB87–210746, $13.95.
- Appendix C: EPA Radon Program, EPA–600/8–87/033, PB87–210753, $9.95.
- Appendix D: Indoor Air Resource History (Published with Appendix C).
- Appendix E: Indoor Air Reference Data Base, EPA–600/8–87–016, PB87-210761, $18.95
- Set: PB87–210712, $60.00.

After August 14, 1987, a limited number of copies will be available from the EPA locations listed below:

ORD Publication Center, CERI–FRN, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, OH 45268, (513) 569–7562 or FTS/684–7562

Public Information Center, U.S. Environmental Protection Agency, 401 M Street, SW (SE Mall, G Level), Washington, DC 20460, (202 382–2080 or FTS/382–3019

The report is also available for inspection and copying at the EPA headquarters library or at any of its regional offices.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Childs (919) 541–2229 or FTS/629–2229, or Ms. Darcy Campbell (919) 541–4477 or FTS/629–4477.

SUPPLEMENTARY INFORMATION: Title IV of the Superfund Amendments and Reauthorization Act of 1986—Radon Gas and Indoor Air Quality Research—mandates that EPA submit to Congress

a plan for implementing its indoor air and radon research program. In this legislation Congress specifies that the research program shall include the areas of characterization and monitoring, health effects, demonstration methods and information dissemination. On April 10, 1987, the Agency submitted to Congress a partial description of its implementation plan, including the detailed radon gas component and a description of the Agency's plans for coordinating the indoor air and radon programs. The report, EPA Indoor Air Quality Implementation Plan, supplements that report by providing a substantially more detailed assessment of the current state of knowledge about indoor air pollution and the Agency's near-term plans for fulfilling the statutory requirements of Title IV.

The report concisely establishes the policy context for indoor air research and the Agency's near-term implementation plan. There are also five appendices to the report that provide a summary of current information on indoor air quality, a description of the Agency's current indoor air research projects, a detailed description of the Agency's radon activities, EPA's indoor air resource history, and a compilation of indoor air literature references.

Date: July 30, 1987.

Vaun A. Newill,

Assistant Administrator for Research and Development.

[FR Doc. 87-18097 Filed 8-7-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 207-010640-001

Title: Armada/GLTL East Africa Service

Parties: Armada Great Lakes/East Africa Service, Ltd. Great Lakes Transcaribbean Line GmbH

Synopsis: The proposed amendment would provide that neither party may terminate the agreement prior to March 31, 1988 and restricts use of the agreement trade name in the event of the agreement's dissolution. It would also make certain non-substantive changes and would restate the agreement.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary,

Dated: August 5, 1987.

[FR Doc. 87-18106 Filed 8-7-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Central and Southern Holding Co. et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 31, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Geogria 30303:

1. *Central and Southern Holding Company,* Milledgeville, Georgia; to acquire 100 percent of the voting shares of Bank of Greensboro, Greensboro, Georgia.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First BancShares, Inc., of Cold Spring,* Cold Spring, Minnesota, to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Cold Spring, Cold Spring, Minnesota.

Board of Governors of the Federal Reserve System,

James McAfee,

Associate Secretary of the Board.

August 4, 1987

[FR Doc. 87-18055 Filed 8-7-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Shares of Banks or Bank Holding Companies; Robert R. Fletcher et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 3, 1987.

A. **Federal Reserve Bank of Atlanta** (Rober E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Robert K. Fletcher,* Clearwater, Florida; to acquire 45.02 percent of the voting shares of Bank of St. Petersburg, St. Petersburg, Florida.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Harold Estes,* Lufkin, Texas; to acquire 12.5 percent of the voting shares of Newton Bancshares, Inc., Beaumont, Texas; and thereby indirectly acquire First National Bank of Newton, Beaumont, Texas.

2. *Robert C. Hext,* Bon Wier, Texas; to acquire 12.5 percent of the voting shares of Newton Bancshares, Inc., Beaumont,

Texas; and thereby indirectly acquire First National Bank of Newton, Beaumont, Texas.

3. *James T. Hughes, Sr.*, Newton, Texas; to acquire 12.5 percent of the voting shares of Newton Bancshares, Inc., Beaumont, Texas; and thereby indirectly acquire First National Bank of Newton, Beaumont, Texas.

4. *Paul N. Hughes*, Newton, Texas; to acquire 12.5 percent of the voting shares of Newton Bancshares, Inc., Beaumont, Texas; and thereby indirectly acquire First National Bank of Newton, Beaumont, Texas.

5. *T.S. Hughes*, Newton, Texas; to acquire 12.5 percent of the voting shares of Newton Bancshares, Inc., Beaumont, Texas; and thereby indirectly acquire First National Bank of Newton, Beaumont, Texas.

6. *James Elray King*, Jasper, Texas; to acquire 12.5 percent of the voting shares of Newton Bancshares, Inc., Beaumont, Texas; and thereby indirectly acquire First National Bank of Newton, Beaumont, Texas.

7. *Bill Walker*, Newton, Texas; to acquire 12.5 percent of the voting shares of Newton Bancshares, Inc., Beaumont, Texas; and thereby indirectly acquire First National Bank of Newton, Beaumont, Texas.

Board of Governors of the Federal Reserve System.

James McAfee,

Associate Secretary of the Board.

August 4, 1987.

[FR Doc. 87-18056 Filed 8-7-87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

General Policy Statement; Commission Action; Public Guidance; Votes

AGENCY: Federal Trade Commission.

ACTION: General policy statement.

SUMMARY: The Federal Trade Commission is issuing the following general policy statement for public guidance in identifying the kinds of Commission actions in which Commissioners' votes will ordinarily be placed on the public record.

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, Office of the General Counsel, Federal Trade Commission, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2447.

SUPPLEMENTARY INFORMATION: The following general policy statement identifies the kinds of Commission actions in which Commissioners' votes will ordinarily be placed on the public record in accordance with § 4.9(b)(1)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(1)(ii). This statement is issued pursuant to the Commission's revision of Rule 4.9 published at 50 FR 50779. (December 12, 1985).

This statement of general policy is not subject to notice and comment under the Administrative Procedure Act. 5 U.S.C. 553(b)(A). The requirements of the Regulatory Flexibility Act also do not apply. 5 U.S.C. 601(2).

Commissioners' Votes to be Placed on the Public Record Pursuant to Rule 4.9(b)(1)(ii)

As stated in Commission Rule 4.9(b)(1)(ii), 16 CFR 4.9(b)(1)(ii), the Commission's policy is to disclose all final votes on matters of public record. The following list, with cross references to relevant sections of Rules 4.9(b), is designed to illustrate the kinds of Commission actions that will ordinarily come within this policy. The Commission may withhold votes on those occasions where the underlying matter is properly nonpublic. Votes on matters not included on this list may be disclosed if the matters are of public record.[1]

Commission Organization and Procedures (§ 4.9(b)(1))

Promulgation of, amendments to, and repeals of rules of practices and procedures, including organizational changes
Delegations of authority

Industry Guidance and Rulemaking (§ 4.9(b)(2), (3))

Approval of advisory opinions
Promulgation of, amendments to, and repeals of trade regulation rules, other rules and regulations, guides and enforcement policy statements; also, decisions to take such actions subject to further public comment
Rulings on such rulemaking activity
Action on petitions for exemption from rules
Changes in effective dates of rules
Reopenings of rulemaking proceedings

Investigations (§ 4.9(b)(4))

Rulings on petitions to quash compulsory process and on motions to reconsider such rulings
Votes to close initial and full phase investigations (including compliance investigations)

[1] Normally, votes will be made public at the time the underlying decision is announced or made part of the public record. Thus, for example, a decision to seek preliminary injunctive relief would not be disclosed until the action is filed in Federal district court.

Adjudicative Proceedings (§ 4.9(b)(5))

Issuance and amendment of administrative complaints
Rulings during the course of adjudicative proceedings, including rulings on interlocutory motions and appeals
Issuance of final orders and opinions
Rulings on petitions for reconsideration

Civil Actions (§ 4.9(b)(5)(v))

Authorization of actions to enforce compulsory process, of injunctions, and of other court actions
Authorization of judicial appeals in court actions

Reopening Final Orders (§ 4.9(b)(5)(vii), (6)(iv))

Decisions on petitions to reopen and modify or vacate Commission orders to cease and desist
Decisions to reopen and modify orders pursuant to court order
Issuance and disposition of orders to show cause why orders to cease and desist should not be modified

Consent Agreements (§ 4.9(b)(6))

Acceptance of consent agreements for placement on public record
Rulings on requests for extensions of comment periods
Rejections of consent agreements after the close of comment periods
Decisions and orders issued after the close of comment periods

Compliance (§ 4.9(b)(7))

Actions to receive and file or reject compliance reports and supplemental compliance reports
Rulings on extensions of time to comply with Commission orders
Decisions concerning requests for approval of divestitures pursuant to order
Stays of enforcement of orders or suspension of compliance with rules

Access to Record (§ 4.9(b)(8) (i)))

Rulings on Freedom of Information Act requests or appeals

Sunshine Act Votes (§ 4.9(b)(8) (ii), (iii), (iv))

Votes under the Sunshine Act to close Commission meetings, to hold certain meetings with less than 7 days' notice, or to change meeting times, places or subject matter

Miscellaneous (§ 4.9(b)(10))

Approval of articles, papers, FTC reports, speeches and public testimony
Clearance requests referred to the Commission

Votes to authorize filings in state or federal agency proceedings

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 87-18063 Filed 8-7-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Epidemiology of HIV Infection Among Imprisoned Drug Users

AGENCY: National Institute on Drug Abuse, HHS.

ACTION: Notice of intent to conduct research on conditions affecting prisoners as a class.

SUMMARY: The Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) has awarded a grant for the study of Human Immunodeficiency Virus (HIV) and drug abuse among prisoners. Because the participants in the study will be incarcerated, regulations at 45 CFR Part 46.306(a)(2)(iii) concerning prisoners as subjects apply. The regulatory requirements of 45 CFR Part 46 have been met; therefore, ADAMHA intends to commence this research.

FOR FURTHER INFORMATION CONTACT: Roy W. Pickens, Ph.D., Director, Division of Clinical Research, National Institute on Drug Abuse, ADAMHA, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: A research study on the transmission of Human Immunodeficiency Virus (HIV) is being conducted under authority of section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The objective of this study is to identify the prevalence of and risk factors for HTLV-III/LAV/HIV infection among entrants into prison, and, more specifically, for parenteral drug users within this group.

The regulatory requirements of 45 CFR Part 46 pertaining to research involving prisoners as subjects have now been met. In addition, this project has been reviewed by a special ethical advisory board established by the National Institutes of Health Office of Prevention from Research Risks. All recommendations by the board are being adhered to. ADAMAHA intends to commence the conduct of this research.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87-18047 Filed 8-7-87; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Statement of Organization, Functions and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) **Federal Register** Vol. 46, No. 223, p. 56919, dated Thursday, November 19, 1981) is amended to indicate a reorganization of the Office of the Associate Administrator for Operations (AAO). The reorganization establishes the Office of Program Planning and Coordination to be attached to the AAO. It will be responsible for integrating and focusing all Operations' efforts, resources, and capabilities toward achieving initatives of the Administrator and Associate Administrator for Operations.

The specific changes to Part F. are as follows:

• Section FP.10, The Office of the Associate Administrator for Operations is amended to include a new organizational component to read as follows:

E. Office of Program Planning and Coordination (FP-1).

• Section FP.20, The Office of Associate Administrator for Operations is amended to include a new functional statement to read as follows:

E. Office of Program Planning and Coordination (FP-1).

Develops and manages systems for integrating and focusing all Operations' efforts, resources, and capabilities toward achieving initiatives of the HCFA Administrator and the Associate Administrator for Operations. Establishes and implements integrated and coordinated Operations-wide management planning processes. Plans, coordinates, and monitors execution of major Operations projects through administration of the workplanning and performance monitoring programs. Plans, directs, and coordinates the Operations performance appraisal systems. Formulates and coordinates policies and positions on management programs having Operations-wide impact, including management and organizational analysis; financial management; budget; and manpower utilization programs. Develops and implements AAO program and administrative delegations of authority. Coordinates and monitors the development of Operations-wide ADP plans and information strategies. Designs, develops, and manages Operations-wide management information systems. Coordinates the preparation of Operations-wide budget. Develops AAO financial management objectives, and plans, prepares, justifies, presents and monitors execution of the Operations budget. Furnishes financial management advice to the Associate administrator for Operations and provides liaison on Operations fiscal matters with HCFA's Office of Management and Budget.

Date: July 16, 1987.

William L. Roper,

Administrator.

[FR Doc. 87-18087 Filed 8-7-87; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-87-1720]

The Performance Review Board; Appointments

AGENCY: Office of the Secretary, Department of Housing and Urban Development.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the appointments of Carl D. Covitz as Chairperson, Judith L. Hofmann as Vice-Chairperson, Peter Kaplan, Lawrence Goldberger, James T. Chaplin, Janice S. Golec, and J. Michael Dorsey (alternate member) to the Departmental Performance Review Board. Their address is: Department of Housing and Urban Development, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Gail L. Lively, Director, Office of Personnel and Training, Department of Housing and Urban Development, Washington, DC 20410, telephone (202) 755-5500. (This is not a toll free number.)

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Date: July 29, 1987.

Samuel R. Pierce, Jr.

Secretary, Department of Housing and Urban Development.

[FR Doc. 87-18128 Filed 8-7-87; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Establishment of Notice of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a new notice describing a system of records maintained by the Office of Surface Mining Reclamation and Enforcement (OSMRE). The notice is titled "Applicant/Violator System (AVS)—Interior, OSMRE-9", and describes records maintained by OSMRE on unabated violations and unpaid civil penalties assessed under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The system of records will be used to control the issuance of mining permits to applicants who have outstanding violations, or who are affiliated with entities that have unabated cessation orders, unpaid civil penalties, or delinquent fees under the SMCRA. The new notice is published in its entirety below.

As required by Section 3 of the Privacy Act of 1974, as amended (5 U.S.C. 552a(o)), the Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives have been notified of this action.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. The Office of Management and Budget in Appendix I to its Circular A-130 requires a 60-day review period for such proposals. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240. Comments received on or before October 13, 1987, will be considered. The notice shall be effective as proposed without further publication at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: July 30, 1987.

Oscar W. Mueller, Jr.,

Director, Office of Management Analysis.

Interior/OSMRE-9

SYSTEM NAME:

Applicant/Violator System (AVS)—Interior, OSMRE-9.

SYSTEM LOCATION:

Office of Surface Mining Reclamation and Enforcement(OSMRE), Department of the Interior Washington, D.C. 20240 and field locations. For specific addresses of field locations contact the System Manager at the address given below. Major system hardware is located at the National Center, Geological Survey, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains names of coal mining permit holders and applicants; individuals and entities who own or control coal mining permit holders and applicants; operators for and agents of coal mining permit holders and applicants; individuals and entities responsible for unabated federal violations, unpaid federal civil penalties or outstanding abandoned mine land reclamation fees arising under the Surface Mining Control and Reclamation Act of 1987, 30 U.S.C. 1201 et seq. (SMCRA); and individuals or entities who own or control individuals or entities responsible for unabated federal violations, unpaid federal civil penalties or outstanding abandoned mine land reclamation fees arising under the SMCRA.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Coal Mining Permit Application information and Permit information such as individuals listed in the application or permit (names, addresses, and social security numbers, if available), bond and acreage information; (2) violator information obtained from OSMRE enforcement records, state enforcement records, and abandoned mine land records; (3) ownership and control information on coal mining operations obtained from the aforementioned records, the Mine Safety and Health Administration legal identity forms and other MSHA records, State Corporation Commission and Secretary of State records, clerk of court records, company or operator financial reports and investigative reports provided to OSMRE under contract.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq.; and the February 1, 1985, Revised Court Order in *Save Our Cumberland Mountains, Inc., et al.* v. *William P. Clark, et al.*, Civil No. 81-2134 (D.D.C. 1985).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATAGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary uses of the records are to: (a) Serve as a tool for OSMRE and State regulatory authorities to determine if any individuals or entity who owns or is in control of a coal mining permit or application for a permit was or is in control of any entity with an unabated OSMRE or State cessation order, unpaid civil penalty, or delinquent abandoned mine land fee prescribed by SMCRA; (b) enable OSMRE and State regulatory authorities to take appropriate action to withhold or revoke permits of entities or individuals in violation of SMCRA; (c) develop data on coal mining activities on a nationwide basis; (d) provide statistics by company, region; judicial district, statye and nationwide for management purposes; (e) enable OSMRE and State regulatory authorities to effectively monitor their program requirements. Disclosures outside the Department of the Interior may be made: (1) To the appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing or implementing statute, rule, regulation, or order when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) to the Internal Revenue Service when disclosure will enable OSMRE to collect civil penalties due it from violators or to collect delinquent abandoned mine lands fees; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to public interest groups as may be required under a February 1, 1985, Revised Court Order in *Save Our Cumberland Mountains, Inc., et al.* v. *William P. Clark, et al.*, Civil No. 81-2134 (D.D.C. 1985); (5) to the U.S. Department of Justice or a court or other adjudicative body of competent jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior

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determines that the disclosure is relevant or necessary to the litigation and is compatible with purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file cabinets and recorded on computer usuble media.

RETRIEVABILITY:

Data is retrievable by numerous combinations or data fileds such as assigned index number, company name, individual name, State, permit number, violation numbers and amount(s) due.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized and manual records. Manual records are maintained in OSMRE areas occupied by OSMRE personnel during working hours with buildings locked and/or guarded during nonworking hours.

RETENTION AND DISPOSAL:

Data stored on computer usable media will be retained until it is determined that the data is not longer needed or required. Manual records will be retained to serve as verification and back-up material. ADP printout records will be disposed of periodically when superseded. Records are retained and disposed of in accordance with OSMRE Records Disposition Authority NC1-433-80-1, Item No. 302-06.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Systems Development and Implementation Information Systems Management, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

To determine whether information is maintained on you in this system, write to the Systems Manager. See 43 CFR 2.60 for form of request.

RECORD ACCESS PROCEDURE:

To see your records, write the system Manager. Describe as specifically as possible the records sought and mark the request "Privacy Act Request for Access." See 43 CFR 2.63 for required content of request.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirement of 43 CFR 2.71. The petition for amendment must be submitted in writing.

RECORD SOURCE CATEGORIES:

(1) Federal and State Coal Mining Permit files both manual and computerized. (2) OSMRE and State Regulation Program files, both manual and computerized. (3) Mine Safety and health Administration (MSHA) Legal Identity Forms and other records. (4) Individual, Operator and Company financial reports. (5) MSHA R-31 Controller Information Data Base. (6) State Corporation Commission, Secretary of State, Taxation bureaus and Clerk of Court Records. (7) Individual or Company Net Worth Determination reports. (8) Department of the Interior Solicitor Files. (9) OSMRE contractors who prepare investigative reports.

[FR Doc. 87-18080 Filed 8-7-87; 8:45 am]
BILLING CODE 4310-05-M

Bureau of Land Management

[ES-940-07-4520-12; ES-037535, Group 22]

Filing of Plat of Dependent Resurvey; Missouri

August 3, 1987.

1. The plat to the dependent resurvey of a portion of the south boundary (Standard Parallel North), Township 34 North, Range 1 East, a portion of the south boundary, and a portion of the subdivisional lines, Township 33 North, Range 1 East, Fifth Principal Meridian, Missouri, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on September 17, 1987.

2. The dependent resurvey was made at the request of the United States Forest Service.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 prior to 7:30 a.m., September 17, 1987.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 87-18045 Filed 8-7-87; 8:45 am]
BILLING CODE 4310-GJ-M

DEPARTMENT OF JUSTICE

Lodging of Consent Degree Pursuant to the Clean Air Act; Wastex Research, Inc.

In accordance with the Department policy, 28 CFR 50.7, notice is hereby given that on July 28, 1987, a proposed consent decree in *United States* v. *Wastex Research, Inc.*, was lodged with the United States District Court for the Southern District of Illinois. The proposed consent decree resolves a judicial enforcement action brought by the United States against Wastex for violations of the Resource Conservation and Recovery Act (RCRA) at its fuel blending facility in East St. Louis, Illinois.

The proposed consent decree requires Wastex to comply with RCRA provisions regarding the receipt and shipping of wastes, compliance with storage provisions, analyses of existing drummed waste, disposal of that waste based on the analyses, and development and funding of a closure plan.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Washington, DC, and should refer to *United States* v. *Wastex Research, Inc.*, D.J. Ref. 90-7-1-267.

The proposed consent decree may be examined at the office of the United States Attorney, Room 330, 750 Missouri Avenue, East St. Louis, Illinois 62201, and at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting

a copy, please enclose a check in the amount of $3.00 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 87-18081 Filed 8-7-87; 8:45 am]

BILLING CODE 4410-201-M

Foreign Claims Settlement Commission

Privacy Act of 1974; Systems of Records

AGENCY: Foreign Claims Settlement Commission of the United States, Justice Department.

ACTION: Notice of Privacy Act systems of records.

SUMMARY: The Foreign Claims Settlement Commission of the United States herewith publishes an updated Notice of its Privacy Act Systems of Records. Publication of such notice is required under subsection (e)(4) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)).

This update is necessary in order to reflect the Commission's transfer, for administrative purposes, to the Department of Justice in 1980 as an independent agency within the Department, and also to reflect changes in the Commission's organization, the location of some of its records systems, and the deletion of one system (Justice/FCSC-26, "Rosters of Prisoners of War and Civilian Internees") due to the release of those records to the National Personnel Records Center in St. Louis, MO.

EFFECTIVE DATE: August 10, 1987.

ADDRESS: 1111 20th Street NW., Room 400, Washington, DC 20579.

FOR FURTHER INFORMATION CONTACT: Judith H. Lock, Administrative Officer. 202/653-6155 or TDD 202/653-5112.

Foreign Claims Settlement Commission Privacy Act of 1974

Notice of Systems of Records

Pursuant to 5 U.S.C. 552a(e)(4), the Foreign Claims Settlement Commission hereby publishes the systems of records as currently maintained by the agency.

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Justice/FCSC—1

SYSTEM NAME:

Indexes of Claimants (Alphabetical)—FCSC.

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Maintained on all individuals who filed claims for compensation under the statutes administered by the Foreign Claims Settlement Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

3 x 5 index cards and data processing print-out indexes containing names of claimants, claim and decision numbers, date and disposition of claims, addresses and dates of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by authorized Commission personnel for identification of individual claims and to obtain information concerning disposition of claims where record systems have been destroyed.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper index cards contained in metal cardex containers. Data processing index print-outs stored on shelves in cardboard binders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Security guards in building. Records maintained in locked rooms accessible only to authorized Commission personnel.

RETENTION AND DISPOSAL:

Permanent records. Disposition will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and information obtained by actions taken by the Foreign Claims Settlement Commission as a result of adjudication of individual claims.

Justice/FCSC—2

SYSTEM NAME:

Bulgaria, Claims Against (1st Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Nationals who suffered certain property losses or damages in Bulgaria prior to August 9, 1955.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful. This system of records was retired to the Washington National Record Center after the completion of the claims program on August 9, 1959.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—3

SYSTEM NAME:

Bulgaria, Claims Against (2nd Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US Nationals who suffered property losses in Bulgaria between August 9, 1955, and July 2, 1963.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any, date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to

support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended, and US-Bulgarian Claims Agreement of July 2, 1963.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. the United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on December 24, 1971.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—4

SYSTEM NAME:

Certification of Awards—FCSC

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving awards under the International Claims Settlement Act of 1949, as amended, and War Claims Act of 1948, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and addresses of claimants and amounts of awards certified to Treasury Department for payment. Name and address of claimant's representative, if any, also included in certification voucher.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

International Claims Settlement Act of 1949, as amended, and War Claims Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Award certifications prepared by authorized FCSC personnel and forwarded to Treasury Department for payment in accordance with statutory authority and Treasury Department regulations and procedures.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by

the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Contained in file folders.

RETRIEVABILITY:

By voucher number and date of certification.

SAFEGUARDS:

Building has building guards. Records are maintained in file cabinets in locked rooms.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653–6155 or TDD 202/653–5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

From award portion of decisions as determined by FCSC.

Justice/FCSC—5

SYSTEM NAME:

China, Claims Against—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses, death and disability in mainland China arising between October 1, 1949, and May 11, 1979.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization of claimant; nature and amount of claim; description, ownership and value of property; and evidence to support claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles I and V, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Adjudication of claims, issuance of decisions as to the validity and amounts of claims and issuance of certifications to each individual claimant as to amount determined by FCSC officials and personnel. Such amounts and copies of FCSC decisions were certified to the Secretary of State and to the Secretary of the Treasury. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File Folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC–1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653–6155 or TDD 202/653–5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—6

SYSTEM NAME:

Civilian Internees (Vietnam)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

American citizens held by a hostile force in Southeast Asia during Vietnam conflict.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form contains name and address, date and place of birth,

birth certificates. Verification of internment furnished by State Department contains names, addresses and inclusive dates of internment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 5(i), War Claims Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Adjudication of claims of American citizens and certification of awards to Treasury Department for payment by authorized FCSC personnel. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed by claim number. Cross-referenced by alphabetical index cards (see system "Jusice/FCSC–1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

Justice/FCSC—7

SYSTEM NAME:

Correspondence (General)—FCSC.

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Generally, US nationals suffering losses in foreign countries; also inquiries from Congressmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence containing names and addresses of individual, description and location of property or other types of losses. Inquiries generally are related to claims, Commission procedures and other related matters not included under the "Correspondence (Inquiries concerning claims in foreign countries)" system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For dissemination of requested information to individuals by FCSC personnel. Correspondence may be referred to other concerned agencies on matters not within the jurisdiction of FCSC.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Alphabetical in file cabinets.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Security guards in building. Records maintained in file cabinets in locked rooms accessible only to authorized Commission personnel.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—8

SYSTEM NAME:

Correspondence (Inquiries Concerning Claims in Foreign Countries)—FCSC.

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals suffering losses in foreign countries; inquiries from Congressmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence containing names and addresses of individuals and description and location of property or other types of losses. Inquiries generally are related to claims programs administered by FCSC. Records also include those transferred from State Department which may relate to such programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, sec. 4(d) International Claims Settlement Act of 1949, as amended, and sec. 216, War Claims Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For dissemination of information by authorized FCSC personnel to individuals making inquiries concerning various claims programs authorized under the International Claims Settlement Act of 1949, as amended, the War Claims Act of 1948, as amended, international claims agreements, and for notification purposes for newly authorized claims programs under which individuals may be affected.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivision,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Alphabetical in file cabinets.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Security guards in building. Records maintained in file cabinets in locked rooms accessible only to authorized Commission personnel.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—9

SYSTEM NAME:

Cuba, Claims Against—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses, death and disability in Cuba since January 1, 1959.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim, including medical and death records in claims involving death and disability.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Adjudication of claims, issuance of decisions as to the validity and amounts of claims and issuance of certifications to each individual claimant as to amount determined by FCSC officials and personnel. Such amounts and copies of FCSC decisions were certified to the Secretary of State pending conclusion of any claims settlement agreement between US and Cuba. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or

particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File Folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW, Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—10

SYSTEM NAME:

Czechoslovakia, Claims Against (1st and 2nd Programs)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses in Czechoslovakia from January 1, 1945, to August 8, 1958 (1st Program) and from August 9, 1958 to February 2, 1982 (2nd Program).

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV, International Claims Settlement Act of 1949, as amended (1st Program) and the Czechoslovakian Claims Settlement Act of 1981 (2nd Program).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized by FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File Folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—11

SYSTEM NAME:

East Germany, Registration of Claims Against—FCSC.

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered certain property losses in East Germany.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claims registration form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information received from individuals on registration forms is for use in preparation of statistical reports which will form the basis for further discussions by the State Department for negotiations between the Governments of the United States and the German Democratic Republic for the settlement of claims of US nationals not otherwise settled. Registration forms filed will be used by FCSC personnel in the distribution of formal claim application forms in case a claims settlement agreement is reached at a future date.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Numerical order in file cabinets. Cross-reference alphabetical index.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Building employs security guards. Records are maintained in locked room accessible only to authorized FCSC personnel.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—12

SYSTEM NAME:

Federal Republic of Germany, Questionnaire Inquiries From—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suffering losses in Eastern European countries, including Germany.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaires from Federal Republic of Germany (Ausgleichsamt) containing name, address, date and place of birth or naturalization; description and location of property. Such information was furnished to Federal Republic of Germany by US residents who filed claims under the West German Federal Compensation Laws (BEG).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To inform Federal Republic Of Germany Equalization of Burdens offices whether individuals who filed claims for losses compensable under the West German Federal Compensation Laws (BEG) also filed claims with the Foreign Claims Settlement Commission

under US claims statutes and received compensation under such statutes for the same losses. Information furnished to FRG obtained from FCSC decisions or claim applications from individuals who filed claims with FCSC.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. Telephone: 202/653–6155 or TDD 202/653–5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Questionnaire from Federal Republic of Germany (Equalization of Burdens Office).

Justice/FCSC—13

SYSTEM NAME:

Payroll records—FCSC.

SYSTEM LOCATION:

Justice Department, Payroll Services Center, 633 Indiana Ave., NW., Washington, DC 20530. Copies held by FCSC, 1111 20th Street NW., Washington, DC 20579.

CATEGORIES OF RECORDS IN THE SYSTEM:

Varied payroll records, including, among other documents, time and attendance sheets; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms, W–2 forms, overtime requests; leave data; retirement records. Records are used by FCSC and Justice Department employees to maintain adequate payroll information for the employees, and otherwise by FCSC and Justice Department employees who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C., generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix under General Personnel Files. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury, pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Office.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Pub. L. 93–579.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel.

RETENTION AND DISPOSAL:

In accordance with General Records Schedule 2, GSA Federal Property Management Regulations.

SYSTEM MANAGERS AND ADDRESSES:

Justice Department Payroll Services Center, 633 Indiana Avenue NW., Washington, DC 20530, and Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

The subject individual; the FCSC.

Justice/FCSC—14

SYSTEM NAME:

General Personnel Files—FCSC.

SYSTEM LOCATION:

Justice Department Personnel Office, 10th and Pennsylvania Avenue NW., Washington, DC 20530. Copies held by Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commission employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

General personnel information, including, among other data, training and travel records, applications, position descriptions, request for and notification of personnel action, employee performance ratings and promotion appraisals, time and attendance records, security clearances, titles, SCD, DOB, grade, salary, employment history, home address, age, marital status, SSN, home telephone number, resume, and letters of recommendation. System contains copies of Office of Personnel Management and Justice Department personnel forms, including, among others: fingerprint chart, security investigation data for sensitive position, data for noncritical-sensitive position, US savings bond authorization, physical fitness inquiry for motor vehicle operators, application for leave, personal qualifications statement, operational emergencies relocation site, recommendation for performance recognition, employee appraisal, payroll change slip, organizational roster, notice of injury or occupational disease, claim for reimbursement for expenditures, statement of earnings, promotion appraisal, and receipt for property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Completion of agency forms for request for personnel actions, security clearances, training authorizations, travel authorizations, time and attendance records, reports, etc. Also used for issuing passes, etc. Information is used "in house" for personnel evaluation and management. Information is disclosed to persons outside the agency for verifying employment/salary, preparing letters of reference at the request of the employee, making travel and training arrangements, supplying data to non-Federal attorneys directories, and furnishing copies of performance appraisals to other government agencies when employees have applied for jobs elsewhere.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

Appendix

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a routine use to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of security clearance, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit; used by Administrative Officer and other authorized agency employees; used for convenient reference to personnel information needed on a daily basis to complete reports, make payroll adjustments, take personnel action, and meet other administrative requirements within the Commission and Justice Department; used also to supply information, as requested by employees, to persons outside the agency.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the Justice Department in connection with administrative services provided to this agency by the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and computer printouts.

RETRIEVABILITY:

Manual by name, grade, title.

SAFEGUARDS:

Filed in guarded buildings; records are available to authorized persons only.

RETENTION AND DISPOSAL:

In accordance with General Records Schedule 1, GSA Federal Property Management Regulations.

SYSTEM MANAGERS AND ADDRESSES:

Justice Department Personnel Office, 10th and Pennsylvania Avenue NW., Washington, DC 20530, and Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Official personnel records, Commission and Justice Department Personnel and Finance Offices. Supervisors, letters of reference or commendation furnished by agency officials or persons from private industry, educational information supplied by colleges and universities, and the individual.

Justice/FCSC—15

SYSTEM NAME:

General Financial Records—FCSC.

SYSTEM LOCATION:

Justice Department Finance Office, Justice Management Division, 601 D Street NW., Washington, DC 20530. Copies held by Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commission employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

SF 1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of the Justice Department and Commission who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix under General Personnel Files. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and tape.

RETRIEVABILITY:

Manual and automated by name.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel.

RETENTION AND DISPOSAL:

In accordance with General Records Schedule 1, GSA Federal Property Management Regulations.

SYSTEM MANAGERS AND ADDRESSES:

Justice Department Finance Office, Justice Management Division, 601 D Street NW., Washington, DC 20530, and Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

The subject individual; the Commission.

Justice/FCSC—16

SYSTEM NAME:

Hungary Claims Against (1st Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses or damages in Hungary prior to August 9, 1955.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File Folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—17

SYSTEM NAME:

Hungary, Claims Against (2nd Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses in Hungary between August 9, 1955, and March 6, 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended, and US-Hungarian Claims Agreement of March 6, 1973.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as: set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—18

SYSTEM NAME:

Italy, Claims Against (1st Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered losses to property attributable to Italian military action arising out of World War II.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application forms containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File Folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see System "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful. This system of records was retired in the Washington National Records Center after the completion of the claims program on August 9, 1959.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—19

SYSTEM NAME:

Italy, Claims Against (2nd Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered certain property losses attributable to military action arising out of World War II. Benefits extended to late US nationals, persons who did not file under the 1st Italian Claims Program and for property losses arising in territory ceded pursuant to the Treaty of Peace with Italy, which claims had been excluded under the 1st program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application forms containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended by Pub. L. 85-604.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on December 24, 1971.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—20

SYSTEM NAME:

Micronesia, Claims Arising In—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inhabitants of Micronesia, including US nationals, who suffered damages to property, disability and death arising out of World War II and arising during the period from the dates of the securing of the various islands of Micronesia to July 1, 1951.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application forms containing name and address of claimant and representative, if any; date and place of

birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Micronesian Claims Act of 1971.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under authority of the Micronesian Claims Act of 1971; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Secretary of Interior for payment by authorized personnel of Foreign Claims Settlement Commission assigned to duty in the Trust Territory of the Pacific Islands and locally hired employees of the Micronesian Claims Commission. Upon completion of the program, the Commission was required under the Micronesian Claims Act to certify to the FCSC, the Secretary of the Interior,and the Congress of the United States (1) a list of all claims allowed and the amounts awarded, (2) a list of all claims disallowed and (3) a copy of the decision rendered in each case.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. Alphabetical index used to identify claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—21

SYSTEM NAME:

Panama, Claims Against-FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered loss of property in Panama as a result of a judgment of the Supreme Court of Panama on October 20, 1931, nullifying title to certain land in Panama.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; description, ownership, and value of property, and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, International Claims Settlement Act of 1949, as amended, and Panamanian Claims Convention of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under GSA security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after completion of the claims program on December 31, 1954.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—22

SYSTEM NAME:

Poland, Registration of Claims—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses in Poland due to nationalization or other taking of such property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim registration form containing name and address of claimant and representative, if any, date and place of birth or naturalization, description, ownership, date of loss and value of property lost.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information received from individuals on registration forms was used in the preparation of statistical reports which served as basis of discussions by the State Department in negotiations between the Governments of the United States and Poland for the settlement of claims of US nationals. Registration forms also used by authorized Commission personnel for distribution of formal application forms upon conclusion of Polish Claims Agreement of July 6, 1960.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined ho longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—23

SYSTEM NAME:

Poland, Claims Against—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses in Poland due to nationalization or other taking of such property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of

birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, International Claims Settlement Act of 1949, as amended, and US-Poland Claims Agreement of July 16, 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on March 31, 1966.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—24

SYSTEM NAME:

Prisoners of War (Pueblo)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the US Armed Forces or any persons (military or civilian) assigned to duty on the USS Pueblo who were captured by military forces of North Korea on January 23, 1968, and held prisoner by such forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant, date and places of birth, branch of service and military service number. In case of death, date, place and name of spouse, names, address and date of birth of surviving children, name and address of parents and VA claim number. Proof of death if no VA claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 6(e), War Claims Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for adjudication of claims for detention benefits, issuance of decisions concerning eligibility of claimant to receive compensation; notifications to claimants of rights to appeal; and preparation of certifications of awards to Treasury Department for payment by authorized Commission personnel. Verifications from State Department include names and addresses and inclusive dates of detention.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By claim number. Cross-referenced by alphabetical index cards which contain claim numbers (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at the Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—25

SYSTEM NAME:

Prisoners of War (Vietnam)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Armed Forces of the United States who were captured and held by a hostile force during the Vietnam conflict beginning February 28, 1961.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant; date and place of birth, branch of service and military service number. In case of death, date, place, name of spouse, names, addresses and dates of birth of surviving children, name and address of parents and VA claim number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 6(f), War Claims Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records used for adjudication of claims for detention benefits; issuance of decisions concerning eligibility of claimants to receive compensation; notifications to claimants of rights of appeal; and preparation of certification of awards to Treasury Department for payment by authorized Commission personnel. Verification of captured status obtained from rosters or casualty reports furnished by the respective military establishments.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—26

SYSTEM NAME:

Rumania, Claims Against (1st Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered certain property losses or damages in Rumania prior to August 9, 1955.

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CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File Folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on August 9, 1959.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—27

SYSTEM NAME:

Rumania, Claims Against (2nd Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered certain property losses in Rumania between August 9, 1955 and March 30, 1960.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended, and the US-Rumania Claims Agreement of March 30, 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on December 25, 1971.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—28

SYSTEM NAME:

Soviet Union, Claims Against—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals suffering loss of property in Russia prior to November 16, 1933, and claims by individuals based upon liens acquired with respect to propery in the US assigned to US Government by the Soviet Government under Litvinov Assignment of November 16, 1933.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

Title III, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to the Treasury Department for payment authorized by FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on August 9, 1959.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653–6155 or TDD 202/653–5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—29

SYSTEM NAME:

Yugoslavia, Claims Against (1st Program)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered property losses in Yugoslavia prior to July 19, 1948.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, International Claims Settlement Act of 1949, as amended, and US-Yugoslavia Claims Agreement of July 19, 1948.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301–3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims program on December 31, 1954.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653–6155 or TDD 202/653–5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—30

SYSTEM NAME:

Yugoslavia, Claims Against (2nd Programs)—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered losses in Yugoslavia which occurred between July 19,1948, and November 5, 1964.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to

support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, International Claims Settlement Act of 1949, as amended, and US-Yugoslavia Claims Agreement of November 5, 1964.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment by authorized FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. File folders retrieved from Records Center by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful. This system of records was retired to the Washington National Records Center after the completion of the claims progra'" on July 15, 1969.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—31

SYSTEM NAME:

German Democratic Republic, Claims Against—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. nationals who suffered certain property losses in the German Democratic Republic.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application form containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV, International Claims Settlement Act of 1949, as amended.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notification to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment. Names and other data furnished by claimants used for verifying citizenship status with INS. The information contained in this system of records is considered by the Commission to be public information which may be disclosed as a routine use to interested persons who make inquiries about the claims program or individual claims therein, including but not limited to Members of Congress or congressional staff, staff of the Office of Management and Budget, other persons interested in the work of the Commission, and members of the news media. Law Enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute or particular program statute or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB

Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC is determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above.

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579; 202-653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Claimant on whom the record is maintained.

Justice/FCSC—32

SYSTEM NAME:

General War Claims Program—Justice/FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

US nationals who suffered certain property losses during World War II.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application forms containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title II of War Claims Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and transmittal of awards, if any, to Treasury Department for payment by authorized by FCSC personnel. Names and other data furnished by claimants used for verifying citizenship status with INS. Law enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record from this system of records may be disclosed as a routine use to a member of Congress or to a Congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity, or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions,

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Claimant on whom the record is maintained.

Justice/FCSC—33

SYSTEM NAME:

Vietnam, Claims for Losses Against—FCSC.

SYSTEM LOCATION:

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Natural and Juridical persons who allege losses against Vietnam.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim application forms containing name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VII, International Claims Settlement Act of 1949, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records were used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to Treasury Department for payment. Names and other data furnished by claimants used for verifying citizenship status with INS. The information contained in this system of records is considered by the Commission to be public information which may be disclosed as a routine use to interested persons who make inquiries about the claims program or individual claims therein, including but not limited to members of Congress, Congressional staff, staff of the Office of Management and Budget, other persons interested in the work of the Commission, and members of the news media.

Law Enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget, in connection with the review of private relief legislation as set forth in OMB Circular No. A-19, at any stage of the legislative coordination and clearance process as set forth in that circular.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Under security safeguards at Washington National Records Center.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

Justice/FCSC—34

SYSTEM NAME:

Ethiopia, Claims for Losses Against—FCSC.

SYSTEM LOCATION:

Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Natural and juridical persons who allege losses against Ethiopia.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claims information including name and address of claimant and representative, if any; date and place of birth or naturalization; nature and amount of claim; description, ownership, and value of property; and evidence to support claim for the purpose of receiving compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title I, International Claims Settlement Act of 1949, as amended, and the December 19, 1985 Compensation Agreement between the Government of the United States of America and the Provisional Military Government of Socialist Ethiopia.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used for the purpose of adjudicating claims of individuals; issuance of decisions concerning eligibility to receive compensation under the Act; notifications to claimants of rights to appeal; and preparation of certifications of awards, if any, to the Treasury Department for payment. Names and other data furnished by claimants used for verifying citizenship status with INS. The information contained in this system of records is considered by the Commission to be public information which may be

disclosed as a routine use to interested persons who make inquiries about the claims program or individual claims therein, including but not limited to members of Congress, Congressional staff, staff of the Office of Management and Budget, other persons interested in the work of the Commission, and members of the news media.

Law Enforcement: In the event that a system of records maintained by FCSC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record, or any facts derived therefrom, may be disclosed in a proceeding before a court or adjudicative body before which the FCSC is authorized to appear or to the Department of Justice for use in such proceeding when:

i. The FCSC, or any subdivision thereof, or

ii. Any employee of the FCSC in his or her official capacity or

iii. Any employee of the FCSC in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the FCSC determines that the litigation is likely to affect it or any of its subdivisions

is a party to litigation or has an interest in litigation and such records are determined by the FCSC to be arguably relevant and necessary to the litigation and such disclosure is determined by the FCSC to be a use compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed numerically by claim number. Alphabetical index used for identification of claim (see system "Justice/FCSC-1" above).

SAFEGUARDS:

Building employs security guards. Records maintained in locked room accessible to authorized FCSC personnel.

RETENTION AND DISPOSAL:

Records maintained under 5 U.S.C. 301. Disposal of records will be made in accordance with 44 U.S.C. 3301-3314 when such records are determined no longer useful.

SYSTEM MANAGER AND ADDRESS:

Administrative Office, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579. 202/653-6155 or TDD 202/653-5112.

NOTIFICATION PROCEDURE:

Set forth in Part 504 of Title 45, Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Claimant on whom the record is maintained.

Judith H. Lock,

Administrative Officer.

[FR Doc. 87-18024 Filed 8-7-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-19,839]

Termination of Investigation; BWP, Inc., Midland, TX

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on June 29, 1987 which was filed on behalf of workers at BWP, Incorporated, Midland, Texas.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 27th day of July 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-18037 Filed 8-7-87; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-179-C]

Petition for Modification of Application of Mandatory Safety Standard; BethEnergy Mines Inc.

BethEnergy Mines Inc., Route 19, Eighty Four, Pennsylvania 15330 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No. 58 (I.D. 36-00957), and its Eighty Four Complex (I.D. No. 36-00958), both located in Washington County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. Petitioner states that maintaining locks on the mobile-powered equipment presents problems because the padlocks either disappear, or the locks are forced open or not used.

3. As an alternate method, petitioner proposes to use a metal retaining device which would be bolted to the battery receptacle. The plug would be firmly secured by a hand-operated, spring-loaded pin which would be attached to the retainer device. This device will secure the plug as well as a padlock does, and it provides the added benefit of staying in place and being more accessible when access is needed. The locking devices will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the locking devices will be securely attached to the battery receptacles to prevent accidental loss of the devices.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These

comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 9, 1987. Copies of the petition are available for inspection at that address.

Dated: July 30, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-18038 Filed 8-7-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-175-C]

Petition for Modification of Application of Mandatory Safety Standard; Jim Walter Resources, Inc.

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery charging stations, substations, compressor stations, shops and permanent pumps) to its No. 7 Mine (I.D. No. 01-01410) located in Tuscaloosa County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner has electrical installations which are located such that all entries close to them are maintained as intake airways. There are no return airways available for ventilating these installations.

3. As an alternate method, petitioner proposes that:

(a) The electric equipment will be housed in a fireproof structure equipped with automatic closing fire doors activated by thermal devices;

(b) The electric equipment will be protected with thermal devices designed to remove incoming power. Grounded phase protective devices protecting three-phase equipment will be adjusted to remove incoming power at not more that 40 percent of the available fault current;

(c) An automatic fire suppression system will be installed and maintained;

(d) The electric equipment will contain no flammable cooling liquid or flammable hydraulic oil;

(e) Rectifying substations providing power to trolley systems will be protected by direct current circuit breakers with reverse current protection;

(f) No combustible materials will be stored or allowed to accumulate in the fireproof enclosure;

(g) Firefighting equipment will be provided on the outside of the fireproof structure;

(h) A signal, activated by a suitable sensor, will be located so that it can be seen or heard by a responsible person; and

(i) The electical equipment and fire suppression devices will be examined weekly.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 9, 1987. Copies of the petition are available for inspection at that address.

Date: July 30, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-18039 Filed 8-7-87; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice (87-64)

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Review Team on General Aviation.

DATE AND TIME: September 2, 1987, 8:30 a.m. to 4:30 p.m.; September 3, 1987, 8:30 a.m. to 4:30 p.m.; September 4, 1987, 8:30 a.m. to 2:00 p.m.

ADDRESS: National Aeronautics and Space Administration, Langley Research Center, Building 1219, Room 225, Hampton, VA 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Louis J. Williams, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202-453-2798.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance and direction to the aeronautics research and technology activities in the Office of Aeronautics and Space Technology (OAST). Special ad hoc teams were formed to address specific topics. The ad hoc team on General Aviation, chaired by Mr. John Olcott, is comprised of nine members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the team members and other participants).

Type of Meeting: Open.

Agenda:

September 2, 1987
- 8:30 a.m.—Opening Remarks.
- 9 a.m.—Langley Research Center General Aviation Research Overview.
- 9:45 a.m.—Briefings—Langley Research Center General Aviation Research Program.
- 4:30 p.m.—Adjourn.

September 3, 1987
- 8:30 a.m.—Review Team Discussions and Drafting of Final Report.
- 4:30 p.m.—Adjourn.

September 4, 1987
- 8:30 a.m.—Drafting of Final Report.
- 2 p.m.—Adjourn.

Dated: August 3, 1987.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 87-18053 Filed 8-7-87; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket 40-2061]

Draft Supplement to the Final Environmental Statement for the Rare Earths Facility, West Chicago, Dupage County, IL; Kerr-McGee Chemical Corp.

By Federal Register Notice published June 29, 1987 (52 FR 24229), the U.S. Nuclear Regulatory Commission (the Commission) announced the availabiltiy of a Draft Supplement to the Final Environmental Statement (DSFES) related to the decommissioning of Kerr-

McGee Chemical Corporation's Rare Earths Facility located in West Chicago, Illinois, with comments on the DSFES from interested persons due to the Commission by August 17, 1987.

To order to ensure that sufficient time is allowed for public comment, the Commission hereby extends the comment period for the DSFES for an additional 45 days, with comments due for the Commission's consideration by October 1, 1987. Comments should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Fuel Cycle Safety Branch. All comments received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, DC and the Local Public Document Room in West Chicago, Illinois.

Dated at Silver Spring, Maryland, this 30th day of July 1987.

For the U.S. Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 87-18111 Filed 8-7-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Trade Policy Staff Committee; Review and Solicitation of Public Comment: Proposed Modification of the List of Articles Eligible for Duty-Free Treatment Under the U.S. Generalized System of Preferences (GSP) To Remove Molybdenum Ore, Concentrates and Oxides, Expedited Review

I. Initiation of Expedited Review

On August 4, the Trade Policy Staff Committee (TPSC) announced (52 FR 28896) the list of cases accepted for review in the 1986 annual review of the GSP program. The purpose of this notice is to announce that the TPSC has granted a request from Cyprus Minerals Company to conduct the review of case numbers 87-26, 87-27, 87-HS-22, and 87-HS-23 on an expedited basis.

In light of the TPSC's decision to expedite its review of the subject cases, the public hearing and comment period specified in (53 FR 28896) will not apply to these cases. A separate public hearing will be held and comments will be accepted on these cases as described below.

II. Public Hearing and Comment Period

The GSP Subcommittee of the Trade Policy Staff Committee invites submissions in support of or in opposition to the cases that are the subject of this notice. All such submissions should conform to 15 CFR 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2), and 2007.1(a)(3).

A hearing will be held on September 2 beginning at 10:00 a.m. in room 403, 600 17th Street NW, Washington, DC. provided that requests to testify are received as specified below. The hearing will be open to the public and the transcript will be made available for public inspection or purchase from the reporting company

Requests to present oral testimony in connection with public hearings should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee no later than the close of business Wednesday, August 26. Oral testimony before the GSP Subcommittee will be limited to five minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if submitted in twenty copies, in English, no later than close of business Wednesday, September 16. Rebuttal briefs should be submitted in twenty copies, in English, by close of business Friday, October 2.

Parties not wishing to appear may submit written briefs or statements in twenty copies, in English, in connection with articles or countries under consideration in the public hearings, provided that such submissions are filed by Wednesday, September 16 and conform with the regulations cited above.

All submissions should be submitted in 20 copies, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee, 600 17th Street NW., Room 517, Washington, DC. 20506. Information submitted in connection with the hearings will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Briefs or statements must be submitted in twenty copies in English. If the document contains business confidential information, twenty copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "nonconfidential").

All communications with regard to this review should be addressed to the GSP Subcommittee, Office of the U.S. Trade representative, 600 17th Street NW, Room 517, Washington, DC 20506. Questions may be directed to the GSP Information Center at (202) 395-6971.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 87-18226 Filed 8-7-87; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24770; File No. SR-NASD-87-23]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on April 27, 1987, a proposed rule change, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, amending Article III, sections 21(b) and 41, of the NASD Rules of Fair Practice and the Board of Governors' Interpretation on Prompt Receipt and Delivery of Securities to clarify the applicability of NASD short sale rules to various types of securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 24641, June 25, 1987) and by publication in the **Federal Register** (52 FR 25102, July 2, 1987). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: August 3, 1987.

[FR Doc. 87-18090 Filed 8-7-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24769; File No. SR-PSE-86-26]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

I. Introduction

On December 1, 1986, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change specifying new requirements for PSE floor members who act as both market makers and floor brokers.

The proposed rule change was noticed in Securities Exchange Act Release No. 24511 (May 26, 1987), 52 FR 20816 (June 3, 1987). No comments were received on the proposed rule change.

II. Description of Proposed Rule Change

The proposed rule change adds three new provisions to section 80 of PSE Rule VI (Restriction on Acting as Market Maker and Floor Broker). As presently drafted, section 80 generally prohibits a PSE market maker from acting as a floor broker on the same business day with respect to option contracts covering the same underlying security. New paragraph (b) states that a member acting as both a market maker and a floor broker whose quarterly total contract volume as a market maker exceeds that as a floor broker shall be given a principal appointment and comply with the terms of section 79, Commentary .04.[3] New paragraph (c) specifies that with the exception of those members who are sole proprietors and/or those who are given primary appointments, members who act as both floor brokers and market makers will be limited to trading 100 contracts per month as a market maker. Finally, new paragraph (d) provides that members who wish to act in the capacity of both market makers and floor brokers must apply for and receive approval through the PSE Options Appointments and Options Floor Trading Committees.

III. Discussion

In its rule filing submission to the Commission, the PSE stated that it has permitted its floor members to act as both market makers and floor brokers since the inception of listed options trading on the Exchange. The only restrictions placed on such members were that they not act as such in the same options during the same trading session, and, as a policy matter, if their principal business was as a market maker, that they be given a primary appointment and comply with the trading requirements accompanying such appointment. The Exchange believes that in today's environment this system which permits a floor member to be registered in both capacities may create possible abuses to the specialist exempt credit provided for in Securities Exchange Act Rule 15c3-1(c)(2)(x)(F)(1). Specifically, the Exchange believes that a firm may nominate a floor member to act in both capacities. The floor member then would act primarily as an independent floor broker. At the same time, however, the same firm might submit orders from off the trading floor, in the name of the floor broker/market maker, to other sections of the floor, with such orders enjoying the treatment afforded market maker orders and receiving specialist exempt credit. Such abuse is difficult to detect and thus the Exchange proposes these rule changes as a deterrent to such possible abuse.

The Exchange believes that by excluding sole proprietors and those members who would be assigned a principal appointment, the rights of those members who legitimately act in both capacities would be preserved. Sole proprietors, by their very nature, are single trading entities and would not be in a position to both enjoy the privilege of floor brokering while at the same time entering orders from off the floor. Members who are principally appointed to trading pits have certain requirements ensuring that in return for exempt credit, these members meet affirmative and negative obligations with respect to market making in such appointments.

The Exchange believes that the principal impact of the rule proposal will be on firms that would abuse the specialist exempt credit privilege by nominating an independent floor broker and then placing trades, from off the floor, as though they were initiated by such floor members. The Exchange believes that the proposed rule change is specifically in keeping with section 6(b)(5) of the Act, in that it is designed to prevent the fraudulent acts and practices described above and to promote just and equitable principles of trade.

IV. Conclusion

The Commission believes that the proposed rule change is an appropriate measure to curb possible trading abuses and will serve to ensure that such abuses as described above are subject to Exchange disciplinary action. Specifically, the rule should operate to dissuade PSE member firms and other floor members from attempting to illegally benefit from the specialist exempt credit provision of the Act. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,[4] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

Dated: August 3, 1987.

[FR Doc. 87-18091 Filed 8-7-87; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1) (1982.

[2] 17 CFR 240.19b-4 (1986).

[3] Commentary .04. generally requires that at least 50% of the trading activity in any quarter of a market maker who has an appointment as a principal market maker be in classes of option contracts to which his principal appointment extends. The PSE has indicated that market makers who are given primary zone appointments pursuant to new paragraph (b) will be required to comply with the terms of this commentary for a minimum time period of one trading quarter.

[4] 15 U.S.C. 78f (1982).

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.303-(a)(12) (1986).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #6540]

Declaration of Disaster Loan Area; New Jersey

Jersey City, New Jersey, constitutes a disaster area because of damages from a fire which occurred on July 15, 1987. Eligible small business without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury until the close of business on May 4, 1988, 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 interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9.5 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Program No. 59002)

Date: August 4, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-18102 Filed 8-7-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5369]

Issuance of a Small Business Investment Company License; Best Finance Corp.

On April 23, 1986, a notice was published in the Federal Register (Vol. 51, No. 78, PG. 15403) stating that an application has been filed by Best Finance Corporation, Los Angeles, CA with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1987)) for a license as a small business investment company.

Interested parties were given until close of business May 23, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09-5369 on June 24, 1987, to Best Finance Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: July 24, 1987.

[FR Doc. 87-18101 Filed 8-7-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice: CM-8/1097]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Stability, Load Lines, and on Safety of Fishing Vessels; Meeting

The working Group on Stability, Load Lines and on Safety of Fishing Vessels of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on 24 August 1987 in room 2415 at 0930 a.m. at Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593.

The purpose of the meeting is to discuss the national positions for Session 32 scheduled for September 2-11, 1987. Items of principal interest on the agenda for this session are:

- Subdivision of Dry Cargo Ships,
- Intact Stability of All Ships,
- SOLAS Convention Chap. II-I,
- Review of Stability for Mobile Drilling Units,
- Voluntary Guidelines for Fishing Vessel Safety.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. W.A. Cleary, Jr., U.S. Coast Guard Headquarters (G-MTH-3), 2100 Second Street SW., Washington, DC 20593, Telephone: (202) 267-2988.

Dated: July 27, 1987.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87-18084 Filed 8-7-87; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 87-8-8; Docket 43742]

Amendment of Sovereign Immunity Waivers in Foreign Air Carrier Permits

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Final Order (Order 87-8-8); Docket 43742.

SUMMARY: Effective August 4, 1987, the Department of Transportation amends the operating authority of all foreign air carriers to require them to waive sovereign immunity from the jurisdiction of U.S. courts in all cases (a) that are based on their operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or (b) are based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States.

FOR FURTHER INFORMATION CONTACT: Patricia N. Snyder, Office of the General Counsel, C-20, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-5621.

SUPPLEMENTARY INFORMATION: The complete text of Order 87-8-8 is available for inspection from our Documentary Services Division at the above address.

Dated: August 4, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-18074 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-62-M

[Order 87-8-7]

Fitness Determination of Aero Virgin Islands Corp.; Order to Show Cause

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Commuter Air Carrier Fitness, Determination—Order 87-8-7, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Aero Virgin Islands Corp., is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than August 20, 1987.

FOR FURTHER INFORMATION CONTACT: Kathy A. Lusby, Air Carrier Fitness Division, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-9721.

Dated: August 4, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-18073 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-62-M

[Order 87-8-6; Docket 44887]

Application of Command Airways, Inc. for Certificate Authority Under Subpart Q; Order to Show Cause

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause (Order 87-8-6), Docket 44887.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Command Airways, Inc., fit and awarding it a certificate of public convenience and

necessity to engage in interstate and overseas scheduled air transportation.

DATE: Persons wishing to file objections should do so no later than August 20, 1987.

ADDRESSES: Objections and answers should be filed in Docket 44887 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC, 20590, ans should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Janet A. Davis, Air Carrier Fitness Division, P-56, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-2341.

Dated: August 4, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-18072 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-62-M

[Order 87-8-9; Docket 44852]

Application of Yutana Airlines for Certificate Authority Under Subpart Q; Order to Show Cause

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause, (Order 87-8-9), Docket 44852.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Yutana Airlines fit and awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation.

DATE: Persons wishing to file objections should do so no later than August 20, 1987.

ADDRESSES: Objections and answers to objections should be filed in Docket 44852 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC, 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division, (P-56, Room 6420), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: August 5, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-18075 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD-87-052]

Public Hearing on the Norfolk and Southern Railway Bridge Across the Upper Mississippi River, Mile 309.9, at Hannibal, MO

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Coast Guard announces a forthcoming public hearing for the presentation of views concerning the alteration of the Norfolk and Southern Railway Bridge.

DATE: The meeting will be held at 7:00 p.m., Thursday, September 17, 1987.

ADDRESS: The meeting will be held in the Tom Sawyer Room of the Holiday Inn, 4141 Market Street, Hannibal, Missouri 63401.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Wiebusch, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri, (314) 425-4607.

SUPPLEMENTARY INFORMATION: Complaints have been received alleging that the bridge is unreasonably obstructive to navigation. Information available to the Coast Guard indicates that there were 17 marine collisions with the bridge since 1968. These collisions have caused moderate to heavy damage to the bridge. Based on this information, the bridge appears to be a hazard to navigation. This may require increasing the horizontal and vertical clearances on the bridge to meet the needs of navigation. All interested parties shall have full opportunity to be heard and to present evidence as to whether any alteration of this bridge is needed, and if so, what alterations are needed giving due consideration to the necessities of free and unobstructed water navigation. The necessities of rail traffic will also be considered.

Any person who wishes may appear and be heard at this public hearing. Persons planning to appear and be heard are requested to notify the Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103-2398, telephone (314) 425-4607, any time prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitations of time allocated will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of or in addition to oral statements and will be made a part of the hearing record. Such written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Second Coast Guard District. Transcripts of the hearing will be made available for purchase upon request.

Dated: August 4, 1987.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 87-18135 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review; Port Columbus International Airport, Columbus, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Columbus for Port Columbus International Airport (CMH) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for CMH under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before January 24, 1988.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is July 28, 1987. The public comment period ends September 10, 1987.

FOR FURTHER INFORMATION CONTACT: Henry A. Lamberts, Federal Aviation Administration, Great Lakes Region, Airports Division, AGL-610, 2300 East Devon Avenue, Des Plaines, Illinois 60018 (312) 694-7387.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds

that the noise exposure maps submitted for CMH are in compliance with applicable requirements of Part 150, effective July 28, 1987. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before January 24, 1988. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations, Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatible program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The city of Columbus submitted to the FAA on March 26, 1987, noise exposure maps, descriptions and other documentation whch were produced during the FAA Part 150 Study conducted at CMH from May 3, 1985 to January 30, 1987. It was requested that the FAA review this material as the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Columbus. The specific maps under consideration are depicted as Noise Exposure Map—1985 and Noise Exposure Map—1990 in the submissions. The FAA has determined that these maps for CMH are in compliance with applicable requirements. This determination is effective July 28, 1987. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local reponsibilities are not changed in any way under Part 150 or through the FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for CMH on March 26, 1987. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs. But further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before January 24, 1988.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW, Room 617, Washington, DC

Federal Aviation Administration, Great Lakes Region, Airports Division, 2300 East Devon, Des Plaines, IL 60018

Federal Aviation Administration, Detroit Airports District Office, East Willow Run Airport, 8800 Beck Road, Belleville, MI 48111

Port Columbus International Airport, 4600 East Seventeenth Avenue, Columbus, OH 43219

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, July 28, 1987.

Peter A. Serini,

Acting Manager, Airports Division Great Lakes Region.

[FR Doc. 87-18113 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-811]

Application for Temporary Permission for Service to Hawaii; American President Lines, Ltd.

Notice is hereby given that American President Lines, Ltd. (APL) by letter dated July 30, 1987, has requested temporary written permission to permit its subsidized vessels operating in Line A service as set forth in its Operating-Differential Subsidy Agreement, Contract MA/MSB-417, to call weekly at Hawaii to provide service from California to Hawaii. The temporary authority is sourght by APL pending final decision in APL's application for permanent authority to serve Hawaii, Docket S-801, which is in the hearing process.

APL would perform weekly calls at Hawaii westbound with sailings in APL's subsidized Line A service en route to Guam and Taiwan. The service would be performed with three C8 and two C6 Pacesetter vessels. APL comments, for the period of the temporary service pending final decision in Docket S-801, that (1) it will adhere to the rate structure established by Matson Navigation Company, Inc., (2) it will not carry more westbound Hawaii cargo than approximately half of that which

has been recently carried by United States Lines, Inc., (USL) (3) it will carry no eastbound Hawaii/mainland cargo, and (4) it will not commence sailings until USL's weekly service is actually suspended.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in APL's application and desiring to submit comments must by 5:00 p.m. on August 18, 1987 file written comments in triplicate with the Secretary, Maritime Administration, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petition for leave to intervene is received within the specified time or if it is determined that petitions fiiled do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Administrator.

Dated: August 5, 1987.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 87-18161 Filed 8-7-87; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 3, 1987

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury, Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 1066 and Schedule Q (Form 1066)
Type of Review: New Collection
Title: U.S. Real Estate Mortgage Investment Conduit Income Tax Return Schedule Q—Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation.
Description: Form 1066 and Schedule Q (Form 1066) are used by a real estate mortgage investment conduit (REMIC) to figure its tax liability and income and other tax-related information to pass through to its residual holders. IRS uses the information to determine the correct tax liability of the REMIC and its residual holders.
Respondents: Business or other for-profit, Small businesses or organizations
Estimated Burden: 3,828 hours

OMB Number: New
Form Number: 8612
Type of Review: New Collection
Title: Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts.
Description: Form 8612 is used by real estate investment trusts to compute and pay the excise tax on undistributed income imposed under section 4981 of the Internal Revenue Code. IRS uses the information to verify that the correct amount of tax has been reported.
Respondents: Businesses or other for-profit
Estimated Burden: 20 hour

OMB Number: 1545-0010
Form Number: W-4
Type of Review: Revision
Title: Employee's Withholding Allowance Certificate
Description: Employees file this form to tell employers (1) the number of withholding allowances claimed, (2) the dollar amount they want withholding increased each pay period, and (3) if they are entitled to claim exemption from withholding. Employers use this information to figure the correct tax to withhold from the employee's wages.
Respondents: Individuals or households
Estimated Burden: 14,329,462 hours

OMB Number: 1545-0096
Form Number: 1042 and 1042S
Type of Review: Revision
Title: Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Foreign Person's U.S. Income Subject to Withholding
Description: Forms 1042 and 1042S are used by withholding agents to report tax withheld at source on payment of certain income paid to nonresident alien individuals, foreign partnerships, or foreign corporations. The Service uses this information to verify that the correct amount of tax has been withheld and paid to the U.S.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 581,246 hours

OMB Number: 1545-0130
Form Number: 1120S, Schedule D and Schedule K-1
Type of Review: Revision
Title: U.S. Income Tax Return for an S Corporation, Capital Gains and Losses, and Shareholder's Share of Income, Credits, Deductions, etc.—1987
Description: Form 1120S, Schedule D (Form 1120S), and Schedule K-1 (Form 1120S) are used by an S Corporation to figure its tax liability and income and other tax-related information to pass through to its shareholders. Schedule K-1 is given to shareholders to assist them in preparing their separate income tax returns. IRS uses the information to determine the correct tax for the S Corporation and its shareholders.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 10,186,805 hours

OMB Number: 1545-0575
Form Number: 5330
Type of Review: Revision
Title: Return of Excise Taxes Related to Employee Benefit Plans
Description: Internal Revenue Code sections 4971, 4972, 4973(a), 4975, 4976, 4977, 4978, 4979, 4979A, and 4980 impose various excise taxes in connection with employee benefit plans. Form 5330 is used to compute and collect these taxes.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 13,118 hours

Clearance Officer: Garrick Shear, (202) 566-6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-18054 Filed 8-7-87; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 87-97]

Recordation of Trade Name; Continental Foods, Inc. (S.A.)

AGENCY: Customs Service, Treasury.

ACTION: Denial of recordation.

SUMMARY: On March 31, 1987, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Continental Foods, Inc. (S.A.)" was published in the **Federal Register** (52 FR 10287).

The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than June 1, 1987. Only one response was received in opposition to the notice.

Upon consideration of the views of the opposition, the Customs Service has decided not to record the trade name "Continental Foods, Inc. (S.A.)" for the following reasons:

(1) Staley Continental, Inc., is the owner of nine (9) incontestable federal registered trade-marks "CONTINENTAL" "CONTINTENTAL COFFEE," and "CFS CONTINENTAL." Nos. 708-480, 762,953, 994,804, 838,487, 838,488, 987,463, 400,719 and 652,134, for bouillon, packaged soup mix, and a broad range of other food products.

(2) The recordation by the Custom Service of the trade name "CONTINENTAL FOODS, INC. (S.A.)" could confuse the public as to the source of the products marketed under that trade name.

(3) The possible purchase of a defective product sold under the trade name "CONTINENTAL FOODS, INC. (S.A.)" could damage the reputation of Staley Continental, Inc., for quality product, bearing any or all of the nine trademarks owned by that corporation.

For the foregoing reasons, the Customs Service has determined that the recordation of the subject trade name by the applicant in contrary to Staley Continental's rights and interest, and accordingly, the application is denied.

DATE: August 10, 1987,

FOR FURTHER INFORMATION CONTRACT: Samuel A. Orandle, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue NW., Washington, DC 20229, (202-566-5765).

Dated: August 4, 1987.

Steven Pinter,

Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87-18112 Filed 8-7-87; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; 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 Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "East German Medals, FIDEM '87" (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 foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the FIDEM exhibition in Colorado Springs, Colorado, beginning on or about September 8, 1987, to on or about September 22, 1987, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: August 4, 1987.

C. Normand Poirier,

Acting General Counsel.

[FR Doc. 87-18086 Filed 8-7-87; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Constance Jordan of the Office of the General Counsel of USIA. The telephone number is 202-485-8501, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

Corrections

Federal Register
Vol. 52, No. 153
Monday, August 10, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59824; FRL-3234-7]

Certain Chemicals Premanufacture Notices

Correction

In notice document 87-16323 beginning on page 27258 in the issue of Monday, July 20, 1987, make the following corrections:

1. On page 27259, in the first column, under **Y 87-188**, in the third line, "acrylic" was misspelled.

2. On the same page, in the same column, under **Y 87-190**, in the fifth line, "dispersant" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Medical Examiner/Coroner Information Sharing Program; Program Announcement and Notice of Availability of Funds for FY 1987

Correction

In notice document 87-16582 beginning on page 27586 in the issue of Wednesday, July 22, 1987, make the following corrections:

1. On page 27586, in the third column, under *A. Purpose*, in paragraph 3., in the fourth line, "in proving" should read "in improving".

2. On page 27587, in the first column, in the first paragraph f., in the fifth line, "or" should read "of".

3. On the same page, in the same column, in paragraph 2. b., in the sixth line, "cases" should read "causes".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 413, 441, 482, and 485

[BERC-451-P]

Medicare and Medicaid Programs; Organ Procurement Organizations and Organ Procurement Protocols

Correction

In proposed rule document 87-17505 beginning on page 28666 in the issue of Friday, July 31, 1987, make the following corrections:

1. On page 28667, in the third column, five lines from the bottom, "Transportation" should read "Transplantation".

2. On page 28668, in the first column, in the 12th line from the bottom, and in the second column, in the second line, "Transportation" should read "Transplantation".

§413.178 [Corrected]

3. On page 28674, in the second column, in § 413.178(d)(1), in the 10th line, "a" should read "or" and in the 11th line, "laboratory" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-12]

Proposed Alteration of VOR Federal Airways; Expanded East Coast Plan Phase II

Correction

In proposed rule document 87-15962 beginning on page 26490 in the issue of Wednesday, July 15, 1987, make the following correction:

§ 71.123 [Corrected]

On page 26491, in the third column, under § 71.123, the fifth heading should read:

V-143 [Amended]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-9]

Proposed Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

Correction

In proposed rule document 87-15960 beginning on page 26485 in the issue of Wednesday, July 15, 1987, make the following corrections:

1. On page 26485, in the third column, under **Availability of NPRM's**, in the eighth line, the telephone number should read "(202) 267-3484".

§ 71.123 [Corrected]

2. On page 26486, in the first column, in § 71.123, under **V-3 [Amended]**, in the 10th line, "004°" should read "044°".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-14]

Proposed Alteration of VOR Federal Airways; Expanded East Coast Plan--Phase II

Correction

In proposed rule document 87-15963 beginning on page 26491 in the issue of Wednesday, July 15, 1987, make the following corrections:

§ 71.123 [Corrected]

On page 26492, in the third column, in § 71.123, under **V-162**, in the fifth line, "190°(20°M)" should read "191°T(201°M)"; and in the seventh line, "032°" should read "INT Huguenot 032°".

BILLING CODE 1505-01-D

federal register

Monday
August 10, 1987

Part II

Department of Education

34 CFR Part 762

Office of Educational Research and Improvement Fellows Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 762

Office of Educational Research and Improvement Fellows Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations to govern the Office of Educational Research and Improvement (OERI) Fellows Program. Under this program, the Secretary may award fellowships to individuals to enable them to conduct independent research in the field of education and in fields related to education. These regulations specify how an individual applies for a fellowship, what conditions for eligibility must be met by an applicant, where the fellowship will be conducted, how a fellow is selected, what the responsibilities of a fellow will be, and how the amount of a fellowship is determined.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Steve Clements, U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 600, Washington, DC 20208, (202) 357-6050.

SUPPLEMENTARY INFORMATION:

Background

The OERI Fellows Program is authorized under section 405(d)(5) of the General Education Provisions Act (20 U.S.C. 1221e(d)(5)). Fellowships may include stipends and allowances for subsistence and travel expenses as provided under Title 5 of the United States Code.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, one party submitted comments on the proposed regulations. An analysis of the comments follows. Substantive issues are discussed under the section of the regulations to which they pertain.

On May 4, 1987, the Secretary published a notice of proposed rulemaking (NPRM) for the OERI Fellows Program in the **Federal Register** (52 FR 16362). The provisions of these final regulations are the same as those in the NPRM except for technical changes.

§ 762.21—What criteria does the Secretary use to rate the fellows?

Comment: The commenter felt that a more substantive definition of "high quality" would be informative.

Response: No change has been made. It is the purpose of the review to determine the quality of the applications.

§§ 762.22 and 762.31—How does the Secretary determine the amount of a fellowship? What is the duration of a fellowship?

Comment: The commenter suggested that a fellow may be employed full-time during hours which do not conflict with his fellowship project (e.g., 3 pm–11 pm), and wanted to know how the Secretary would determine the amount of the stipend under those circumstances.

Response: No change has been made. Under those circumstances, the amount of a stipend would be determined on a case by case basis; however, it is the intent of the Secretary that a full-time fellow would not have other regular employment. The purpose of basing the stipend on current salary is to allow the fellow to pursue research of OERI and during that period not have to engage in other employment.

§ 762.22—How does the Secretary determine the amount of a Fellowship?

Comment: The commenter asked if the use of Government Transportation Requests is assumed, or is the fellow allowed to obtain the lowest possible fares elsewhere.

Response: No change has been made. It is the government's intention that the fellow will travel when necessary using the most economical means consistent with applicable federal regulations.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 762

Education, Educational research, Fellowships, Teachers.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development)

Dated: July 15, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 762 to read as follows:

PART 762—OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT FELLOWS PROGRAM

Subpart A—General

Sec.
762.1 What is the Office of Educational Research and Improvement Fellows Program?
762.2 Who is eligible for a fellowship?
762.3 What types of projects may a fellow conduct under this program?
762.4 What regulations apply?
762.5 What definitions apply?

Subpart B—How Does an Individual Apply for a Fellowship?

762.10 How does an individual apply for a fellowship?

Subpart C—How Does the Secretary Award a Fellowship?

762.20 How is a fellow selected?
762.21 What criteria does the Secretary use to rate the fellows?
762.22 How does the Secretary determine the amount of a fellowship?
762.23 What payment methods may the Secretary use?
762.24 What are the procedures for payment of a fellowship award directly to a fellow?
762.25 What are the procedures for payment of a fellowship award through the fellow's employer?

Subpart D—What Conditions Must Be Met by a Fellow?

762.30 Where may the fellowship project be conducted?
762.31 What is the duration of a fellowship?
762.32 What reports are required?

Authority: 20 U.S.C. 1221e, unless otherwise noted.

Subpart A—General

§ 762.1 What is the Office of Educational Research and Improvement Fellows Program?

Under the Office of Educational Research and Improvement (OERI) Fellows Program, the Secretary provides Federal financial assistance enabling individuals to make contributions to the

improvement of education by engaging in educational research.

(Authority: 20 U.S.C. 1221e)

§ 762.2 Who is eligible for a fellowship?

(a) Only individuals are eligible to be recipients of fellowships.

(b) Any individual who has training and experience that indicates that he or she has the potential to conduct educational research is eligible to apply for assistance under this program.

(c) An individual must be a citizen of the United States to be eligible for a fellowship under this program.

(Authority: 20 U.S.C. 1221e)

§ 762.3 What types of projects may a fellow conduct under this program?

A fellow shall conduct an educational research project addressing one or more areas—

(a) Teaching and learning, including educational institutions and academic disciplines, the economic, social, and policy context of education, and research findings and proven exemplary practices which may be adopted to improve the quality of educational practice;

(b) Education statistics, pertinent to the present condition of education, trends in education and what does and does not work in education;

(c) Library resources and services;

(d) Procedures and techniques for dissemination of education information to policymakers at the Federal, State, and local levels, the education community and the general public; and

(e) Other areas either proposed by the applicant and determined by the Secretary to be worthy of support or established by the Secretary.

(Authority: 20 U.S.C. 1221e)

§ 762.4 What regulations apply?

The regulations in this Part 762 apply to this program.

[Authority: 20 U.S.C. 1221e]

§ 762.5 What definitions apply?

(a) *Definitions in EDGAR.*

(1) The following terms used in this part are defined in 34 CFR 77.1:

Department
EDGAR
Secretary

(2) The definitions in 34 CFR 77.1 of "Applicant", "Application", "Award", and "Project" do not apply to this part.

(b) *Other definitions.* The following definitions also apply to this part:

"Applicant" means an individual requesting a fellowship under this program.

"Application" means a written request for a fellowship under this program.

"Award" means an amount of funds provided for fellowship activities.

"Educational research" means one or more of the following activities in education or fields related to education: basic and applied research, planning, surveys, assessments, evaluations, investigations, experiments, development, and demonstrations.

"Fellow" means a fellowship recipient under this part.

"Fellowship" means an award made to an individual to carry out an educational research project in OERI.

"Project" means the work to be engaged in by the fellow during the period of the fellowship.

[Authority: 20 U.S.C. 1221e]

Subpart B—How Does an Individual Apply for a Fellowship?

§ 762.10 How does an individual apply for a fellowship?

An individual shall apply to the Secretary for a fellowship award in response to an application notice published by the Secretary in the **Federal Register**.

[Authority: 20 U.S.C. 1221e]

Subpart C—How Does the Secretary Award a Fellowship?

§ 762.20 How is a fellow selected?

The Secretary rates applications using the criteria in § 762.21 and then determines the order in which the applications will be selected. The Secretary may consider the following in making this determination:

(a) The rating of the applications based on the criteria.

(b) Whether the selection of an application would increase the subject matter diversity of fellowship projects awarded under this program.

[Authority: 20 U.S.C. 1221e]

§ 762.21 What criteria does the Secretary use to rate the fellows?

The Secretary uses the following criteria in evaluating each applicant for a fellowship:

(a) *Quality of the plan for the proposed activity.* (40 Points) The Secretary reviews the quality of each proposed project to ensure that—

(1) The design of the project is of high quality;

(2) The applicant's project relates to the purposes of the fellowship program; and

(3) The applicant's project is feasible.

(b) *Significance of the proposed project.* (20 Points) The Secretary assesses the significance of each proposed project to ensure that—

(1) The project addresses important issues in American education;

(2) Project results will benefit American education; and

(3) The project will enhance education practice.

(c) *Qualification of the applicant.* (40 Points) The Secretary reviews the qualifications of each applicant to ensure—

(1) The appropriateness and quality of the education and experience of the applicant as they may be related to the proposed project; and

(2) Demonstrated ability to produce a final product which is comprehensive and useful.

[Authority: 20 U.S.C. 1221e]

§ 762.22 How does the Secretary determine the amount of a fellowship?

The amount of a fellowship includes—

(a) A stipend, based on—

(1) The fellow's current annual salary prorated for the length of the fellowship; or

(2) If a fellow has no current salary, the fellow's education and experience; and

(b) A subsistence allowance and necessary travel expenses related to the fellowship, consistent with Title 5 U.S.C. Chapter 57.

[Authority: 20 U.S.C. 1221e]

§ 762.23 What payment methods may the Secretary use?

(a) The Secretary may pay a fellowship award directly to the fellow or through the fellow's employer.

(b) The secretary considers the preferences of the fellow in determining whether to pay a fellowship award directly to the fellow or through the fellow's employer; however, the Secretary pays a fellowship award through the fellow's employer only if the employer enters into an agreement with the Secretary to comply with the provisions of § 762.25.

[Authority: 20 U.S.C. 1221e]

§ 762.24 What are the procedures for payment of a fellowship award directly to the fellow?

(a) If the Secretary pays a fellowship award directly to the fellow, after the Secretary determines the amount of a fellowship award, the fellowship recipient shall submit a payment schedule to the Secretary for approval. The Secretary advises the recipient to the approved schedule.

(b) If the fellow does not complete the fellowships, the fellow shall return to the Secretary a prorated portion of the stipend and any unused subsistence allowance and travel funds at the time

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and in the manner required by the Secretary.

[Authority: 20 U.S.C. 1221e]

§ 762.25 What are the procedures for payment of a fellowship award through the fellow's employer?

(a) If the Secretary pays a fellowship award through the fellow's employer, the employer shall submit a payment schedule to the Secretary for approval.

(b) The employer shall pay the fellow the stipend and subsistence allowance according to the payment schedule approved by the Secretary. If the fellow does not complete the fellowship, the fellow shall return to the employer a prorated portion of the stipend and any unused subsistence allowance and travel funds. The employer shall return the funds to the Secretary at the time and in the manner required by the Secretary. The employer shall also return to the Secretary any portion of the stipend and subsistence allowance and travel funds not yet paid by the employer to the fellow.

[Authority: 20 U.S.C. 1221e]

Subpart D—What Conditions Must be Met by a Fellow?

§ 762.30 Where may the fellowship project be conducted?

A fellow carries out a project at OERI in Washington, D.C. unless the Secretary determines that unusual circumstances exist and authorizes the fellow to carry out all or part of the project elsewhere.

[Authority: 20 U.S.C. 1221e]

§ 762.31 What is the duration of a fellowship?

The Secretary awards a fellowship for at least four and no more than 12 months of full-time activity, or the equivalent in less than full-time participation.

[Authority: 20 U.S.C. 1221e]

§ 762.32 What reports are required?

A fellow shall submit a final report to the Secretary no later than 90 days after the completion of the fellowship. Each report must contain a description of the activities conducted by the fellow and a thorough analysis of the degree to which the objectives of the project have been achieved. In addition, the report must include a detailed discussion of how the results of the educational research could be utilized to enhance educational practice in the United States.

[Authority: 20 U.S.C. 1221e]

(Approved by the Office of Management and Budget under control number 1850-0610)

[FR Doc. 87-18061 Filed 8-7-87; 8:45 am]

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federal register

Monday
August 10, 1987

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Alteration of the Los Angeles Terminal Control Area, California; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-31]

Proposed Alteration of the Los Angeles Terminal Control Area; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Los Angeles, CA, Terminal Control Area (TCA). This proposal would raise the upper limits of the TCA to 12,500 feet mean sea level (MSL) to enable air traffic control (ATC) to provide terminal ATC service to arriving and departing turbojet aircraft in a TCA environment throughout transition to and from the enroute structure. The proposal additionally would extend the lateral limits of the TCA, east and south, to 30 miles from the airport, to provide an area wherein ATC can provide TCA control and services throughout critical maneuvering phases of flight operations in the terminal area. This would also consolidate several existing subareas which would simplify dual flight rules (VFR) transient operations outside TCA airspace and enhance the ability of pilots to identify the vertical and lateral TCA boundaries.

DATES: Comments must be received on or before December 9, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 87-AWA-31, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-31." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Public Meeting Schedule

The schedule for the public meeting will be published at a later date. The FAA intends to convene several informal airspace meetings in conjunction with this proposal, which will be held at various locations throughout the southern California area. Dates and locations will be announced at least 60 days prior to each meeting.

Agenda

—Presentation of Meeting Procedures
—FAA Presentation of Proposal
—Public Presentations and Discussion

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings in order to receive additional input with respect to the proposal. Persons who plan to attend the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) The meetings will begin in the early evening at a time convenient to the general public. There will be no admission fee or other charge to attend and participate. The meetings will be open to all persons on a space available basis. The FAA representative may accelerate the meeting agenda to enable early adjournment if the progress of any meeting is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at the meetings will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted. Participants submitting handout materials should present an original and two copies to the presiding officer before distribution. There should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the Los Angeles TCA as follows:

1. Raise the upper limit of the Los Angeles TCA to 12,500 feet above mean sea level (MSL). TCA's are established to provide the highest practical level of safety for the greatest number of aircraft and enplaned passengers in the congested airspace surrounding large terminal hubs. This is accomplished by providing air traffic control (ATC) with an increased capability to provide separation within that airspace by ensuring that all aircraft are subject to specific operating rules, pilot and equipment requirements. Flight operations within the Los Angeles TCA require a two-way communication

capability; very high frequency omnidirectional radio range (VOR) or tactical air navigational aid (TACAN); a radar transponder with 4096 code and automatic pressure altitude reporting capability; and a private pilot certificate or better to takeoff or land at an airport within the TCA. As a result, ATC has information on and control of all flights within the confines of the TCA, including aircraft position, altitude, direction of flight and pilot intentions as well as any additional information ATC deems appropriate. This significantly improves ATC's ability to separate aircraft, provide essential services and promote safety of flight for a high volume of enplaned passengers.

ATC contains large turbine-powered aircraft within the confines of the TCA airspace when operating to or from the primary airport. However, the present 7,000-foot upper limit of the Los Angeles TCA does not afford an area whereby aircraft transitioning between the enroute structure and the terminal structure can be provided the level of ATC service and safety provided by TCA airspace. Raising the upper limit of the Los Angeles TCA to 12,500 feet MSL would ensure that these aircraft are provided the level of ATC service desired throughout a critical phase of flight.

2. Raise the upper limit of the surface area in Area A from 2,500 feet MSL to 3,000 feet MSL and the base of the upper portion of Area A to 5,000 feet MSL. Currently, aircraft executing a missed approach at Los Angeles International Airport must turn in order to ensure required separation from aircraft departures. This turn places additional workload on the controller and pilot, and in many cases causes the aircraft executing the missed approach to fly beyond the boundary of the TCA, in close proximity to an area where aircraft are operating VFR. Raising the altitude in this segment from 2,500 feet to 3,000 feet MSL would eliminate such turns and contain the aircraft within the lateral limits of the TCA. This would increase the level of safety in the immediate vicinity of the airport.

Area A would continue to provide the VFR flight corridor that currently enables aircraft to transit over Los Angeles International Airport without being subject to the operating and pilot and equipment requirements of the TCA, and without mixing with large turbojet aircraft. This corridor is configured to enable transit at 3,500 feet MSL southeast bound and 4,500 feet MSL northwest bound. This adjustment would not alter the present VFR transit procedures and would continue to provide an area in which aircraft transiting in opposite directions through the VFR corridor may provide their own separation.

3. Alter the radials which define Area B by one degree to make the area easier to identify.

4. Enlarge Area C to the south, thereby encompassing an additional area approximately 2 miles wide which would permit more effective containment of west arrivals and east departures. Many of these east departures require a right turn to proceed west prior to turning on course. The proposed additional airspace would facilitate containment of these departures until they attain sufficient altitude to remain above the base of the TCA.

5. Enlarge Area D to the west, at the same time creating a simplified boundary by reducing the number of reference VOR's. This would provide additional maneuvering airspace for aircraft on downwind for approach to Los Angeles International Airport and on departure to the northeast.

6. Reduce Area E north to enhance the overall simplification of the TCA design.

7. Extend Area F south and east to the 20-mile DME of the Los Angeles VORTAC. This area is utilized extensively for departures and for arrivals from the south. Within this area a complex mix of traffic exists due to operations conducted to/from adjacent airports in the southern area of Los Angeles. The current configuration does not provide an area in which ATC can ensure the containment of aircraft in the TCA. The proposed change would provide the additional airspace necessary to contain these arrivals and departures within the TCA.

8. Extend Area G. With a base altitude of 6,000 feet MSL, Area G as extended would provide an area in which to contain aircraft operations during climb and descent profiles while transitioning between the terminal and enroute structure. The present outer limits of the Los Angeles TCA do not provide sufficient lateral dimensions to ensure aircraft are contained within the TCA until they are clear of the highly congested environment of the Los Angeles area. Extending this lateral boundary would provide a greater level of safety. The FAA believes sufficient airspace would be available below the TCA to allow operations by nonparticipating aircraft transiting through the area or operating to or from airports located in the Los Angeles area. This outer area would normally extend to 30 miles in all directions. However, due to terrain and other factors, the FAA proposes to delete the portion of this area north of the Ventura VORTAC 089° radial and the Paradise VORTAC 287° radial from the TCA configuration. Due to present delegation of airspace responsibility among ATC facilities, that airspace between 20 and 30 miles of the Los Angeles VORTAC, west of the Los Angeles 184° radial and south of the Ventura 089° radial, which is primarily over water, is not being included in this proposal. However, should these facilities' airspace assignments be realigned or a change in air traffic flow occur, future alteration of the TCA to encompass this area may be warranted.

9. Extend Area H to the south, to ensure that departure flight paths are contained within the TCA.

10. Extend Area J toward the south, to ensure departures are contained within the TCA and provide additional maneuvering airspace for turbojet aircraft arrivals.

11. Raise the base altitude of Area K to 5,000 feet MSL. The northern portion of the TCA would be simplified and would provide additional airspace north and west of Los Angeles available to nonparticipating aircraft conducting VFR operations.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may

apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Regulatory Evaluation Summary

Benefit-Cost Analysis

The regulatory evaluation prepared for this NPRM examines the benefit and cost aspects of modifying the Los Angeles TCA. The NPRM amends Part 71 of the Federal Aviation Regulations. This NPRM would enhance safety primarily by raising the ceiling of the TCA from 7,000 to 12,500 feet MSL, altering the lateral limits to 30 miles from the primary airport except to the north, and consolidating several existing subareas within the TCA. In addition, this proposed rule would enable ATC to provide additional TCA service to arriving and departing aircraft throughout transition to/from the terminal and enroute environment and would provide additional airspace in which aircraft perform operations throughout maneuvering phases of flight within the TCA.

This proposed rule is based on recommendations from the FAA regarding the improvement of safety. Such safety improvements would be accomplished by the improved containment of Los Angeles International Airport operations in protected airspace; the simplification of transient operations; and the enhancement of the pilot's ability to readily identify the vertical and horizontal boundaries of the Los Angeles TCA.

a. Costs

The FAA estimates the total cost expected to accrue from implementation of the proposed rule to be $5,319,000 (discounted present value, 10%, 10 years). This cost represents additional equipment, training and 12 air traffic controllers.

The total cost estimate does not include the cost of additional avionics or circuitous flight routes for general aviation aircraft operators who fly VFR and do not currently have the necessary avionics to enter the TCA. Ordinarily, as a result of this NPRM, such aircraft operators would have to either acquire the necessary avionics (namely, an altitude encoding transponder required for Mode C transmission) or circumnavigate as much as 20 additional miles out of the way. However, since another proposed rulemaking action may require such equipment, it is assumed for the purpose of this evaluation that no additional cost would accrue from this NPRM. (See Notice 87-7, "Terminal Control Area (TCA) Classification and TCA Pilot and Equipment Requirements," 52 FR 22918, June 16, 1987.) This assessment is based on the assumption that the FAA would adopt the proposed rule change that would require aircraft located within a 30-mile radius of the Los Angeles International Airport to be equipped with Mode C capability. It is assumed that this NPRM would not impose additional costs on general aviation operators who fly VFR and do not have Mode C capability, because they would be required to be equipped with such equipment by a separate rule adopted prior to the probable effective date of this proposal. If, however, the FAA does not adopt the other proposed rule change, some general aviation operators who fly VFR and who do not have the necessary avionics to enter the TCA would incur an additional cost of compliance. The FAA estimates this cost, which would represent additional operation cost incurred as a result of circumnavigating those expanded areas of the TCA, to be $2.6 million (discounted) over the next 10 years. Since these types of aircraft are operated primarily by individuals, they would more than likely elect to circumnavigate the expanded areas of the TCA rather than purchase the necessary avionics (more than $1,300 per aircraft) to fly through the TCA.

b. Benefits

The FAA considers increased safety to be the prime factor in proposing alterations to the Los Angeles TCA, as described in this proposal. These proposed alterations would increase the amount of airspace included in the TCA and thus provide positive control and assured separation to a greater number of aircraft operating in the highly congested airspace surrounding the Los Angeles TCA. This proposal would also simplify the configuration of the Los Angeles TCA, thereby enhancing the pilot's ability to identify the vertical and lateral boundaries of the TCA.

In a FAA report entitled, "An Analysis of Selected Near Midair Collisions (December 1986)," it is suggested that the equipment and operating requirements imposed on aircraft operating within TCA's significantly reduce collision risk. Therefore, expanding the airspace encompassed by the TCA, and thus the equipment and operating requirements associated with that airspace as proposed would increase the safety level both in and around the Los Angeles TCA. For example, a midair collision occurred between an Aeromexico DC-9 and a Piper Archer PA-28-181 on August 31, 1986, killing 85 people. The collision occurred 20 miles southeast of Los Angeles International Airport over Cerritos, CA, at an approximate altitude of 6,500 feet MSL, which is inside the TCA. The Piper was not equipped with an altitude encoding transponder and, as such, did not possess the required altitude reporting capability; hence, the aircraft had entered the TCA without ATC's knowledge. If the proposed expanded requirements had been in effect, this accident may have been avoided.

The purpose behind these proposed alterations is to prevent future accidents similar to the midair collision that took place over Cerritos, CA, in August 1986. Although this proposal may not have prevented that particular accident, the FAA believes that this proposal would reduce the probability of other accidents in this region even while the already high traffic levels in the Los Angeles TCA continue to grow. In 1985 there were 546,000 operations at Los Angeles International Airport. The FAA predicts that this number will grow to 634,000 by the year 2000. Long Beach Airport, which is in close proximity to the Los Angeles TCA in its present configuration and would underlie a part of the TCA if this proposal is implemented, had 398,000 operations in 1985. There are other heavily trafficked airports in the Los Angeles region including Van Nuys, Burbank and Santa Ana. Traffic levels at all of these airports are expected to grow into the next century.

The FAA strongly believes that this NPRM would help to reduce the probability of a future midair collision, especially in an era of continually increasing levels of traffic in this already congested area. Although the FAA does not believe that an accident of the magnitude of that which occurred over Cerritos, CA, in August 1986, which amounted to $53 million (discounted) in

monetary damages, would happen again, the benefits associated with preventing an accident of one quarter that magnitude would significantly outweigh the costs of this proposal. Expressed in monetary terms, the benefits associated with avoiding such an accident would be approximately $13 million in 1987 dollars (discounted present value, 10%, 10 years). If, however, the FAA does not adopt the proposed rule change previously noted in the cost section, potential benefits from this NPRM could increase to $26 million over the next 10 years.

In view of the dicussion set forth in this evaluation, the FAA believes that the benefits, especially in terms of increased safety, of this proposal significantly outweigh the costs that may be imposed as a result of its implementation.

The Regulatory Evaluation that has been placed in the docket contains additional information related to the costs and benefits that are expected to accrue from the implementation of this NPRM.

International Trade Impact Statement

This proposed rule would have no effect on the sale of foreign aviation products or services in the United States, nor would it affect the sale of United States products or services in foreign countries. This is because only the FAA would incur costs by this NPRM for those reasons previously discussed in the cost section.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The small entities which could be potentially affected by the implementation of this notice are unscheduled operators of aircraft for hire (SIC 4511) who own nine or fewer aircraft.

Ordinarily, operators of aircraft for hire could be impacted by this proposal by the Mode C capability requirement for aircraft operating in a Group I TCA. However, if the prior Mode C rulemaking is adopted by the FAA, such aircraft operating in the Los Angeles TCA would be required to have Mode C capability prior to a reasonable effective date for this proposal. Even if the rule proposed in Notice 87-7 is not adopted, only a small portion of small entities, within the meaning of the Regulatory Flexibility Act, would be affected. This is because virtually all aircraft used in commercial operations in the southern California area are already equipped with Mode C.

The other costs which were estimated in this regulatory evaluation, such as additional equipment, and hiring and training additional air traffic controllers, would be incurred by the FAA and would not impact any small entity.

Conclusion

For the reasons set forth above under Regulatory Evaluation, the proposed rule (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

2. Section 71.401(a) is amended as follows:

Los Angeles, CA [Revised]

Primary Airport

Los Angeles International Airport (lat. 33°56'25"N., long. 118°24'10"W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 3,000 feet MSL and from 5,000 feet MSL to and including 12,500 feet MSL bounded on the north by Ballona Creek; on the east by the San Diego Freeway; on the south by Los Angeles VORTAC 090°T(075°M) radial; and on the west by the Pacific Ocean shoreline.

Area B. That airspace extending upward from the surface to and including 12,500 feet MSL beginning at the intersection of the San Diego Freeway and the Los Angeles VORTAC 060°T(045°M) radial then easterly via the Los Angeles VORTAC 060°T(045°M) radial to intercept the Los Angeles VORTAC 10-mile DME arc; then clockwise via the Los Angeles VORTAC 10-mile DME arc to intercept the Los Angeles VORTAC 090°T(075°M) radial; then westerly via the Los Angeles VORTAC 090°T(075°M) radial to intercept the San Diego Freeway; then northerly via the San Diego Freeway to the point of origin.

Area C. That airspace extending upward from 2,000 feet MSL to and including 12,500 feet MSL beginning at the intersection of the Los Angeles VORTAC 060°T(045°M) radial and the Los Angeles VORTAC 15-mile DME fix; clockwise via the Los Angeles VORTAC 15-mile DME arc to intercept the Paradise, CA, 267°T(252°M) radial; then westerly via the Paradise 267°T(252°M) radial to intercept the Los Angeles VORTAC 101°T(086°M) radial; then westerly via the Los Angeles VORTAC 101°T(086°M) radial to the 5-mile DME fix; then counterclockwise via the 5-mile DME arc to the Los Angeles VORTAC 090°T(075°M) radial; then easterly via the Los Angeles VORTAC 090°T(075°M) radial to the Los Angeles VORTAC 10-mile DME arc; then counterclockwise via the 10-mile DME arc to the Los Angeles VORTAC 060°T(045°M) radial; then via the Los Angeles VORTAC 060°T(045°M) radial to the point of origin.

Area D. That airspace extending upward from 2,500 feet MSL to and including 12,500 feet MSL beginning at the intersection of Ventura, CA, VORTAC 090°T(074°M) radial and the Los Angeles VORTAC 023°T(008°M) radial; easterly via the Ventura VORTAC 090°T(074°M) radial to intercept the Paradise VORTAC 287°T(272°M) radial; then via Paradise VORTAC 287°T(273°M) radial to intercept the Los Angeles VORTAC 20-mile DME arc; then clockwise via the 20-mile DME arc to intercept the Paradise VORTAC 267°T(252°M) radial; then west via the Paradise VORTAC 267°T(252°M) radial to intercept the Los Angeles VORTAC 15-mile DME arc; then counterclockwise via the Los Angeles VORTAC 15-mile DME arc to the Los Angeles VORTAC 060°T(045°M) radial; then southwesterly via the Los Angeles VORTAC 060°T(045°M) radial to the San Diego Freeway; then northwesterly via the San Diego Freeway to the Los Angeles VORTAC 023°T(008°M) radial; then northerly via the Los Angeles VORTAC 023°T(008°M) radial to the point of origin.

Area E. That airspace extending upward from 4,000 feet MSL to and including 12,500 feet MSL beginning at the intersection of the Los Angeles VORTAC 20-mile DME fix and the Paradise VORTAC 287°T(272°M) radial; then easterly via the Paradise VORTAC 287°T(272°M) radial to intercept the Los Angeles VORTAC 25-mile DME arc, then clockwise via the Los Angeles VORTAC 25-mile DME arc to intercept the Paradise VORTAC 267°T(252°M) radial; then westerly via the Paradise VORTAC 267°T(252°M) radial to intercept the Los Angeles VORTAC 20-mile DME arc; then counterclockwise via the Los Angeles VORTAC 20-mile DME arc to the point of origin.

Area F. That airspace extending upward from 5,000 feet MSL to and including 12,500 feet MSL beginning at the Los Angeles VORTAC: easterly via the Los Angeles VORTAC 090°T(075°M) radial to the 5-mile DME, then clockwise via the Los Angeles VORTAC 5-mile DME arc to the intersection

of the Los Angeles VORTAC 101°T(086°M) radial; then via the Los Angeles VORTAC 101°T(086°M) radial to intercept the Paradise VORTAC 267°T(252°M) radial; then easterly via the Paradise 267°T(252°M) radial to a point 20-miles from the Los Angeles VORTAC; then clockwise via the Los Angeles VORTAC 20-mile DME arc to intercept the Los Angeles VORTAC 184°T(169°M) radial; then via the Los Angeles VORTAC 184°T(169°M) radial to the point of origin.

Area G. That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL beginning at the intersection of the Los Angeles VORTAC 25-mile DME arc and the Paradise VORTAC 287°T(272°M) radial; then via the Paradise VORTAC 287°T(272°M) radial to intercept the Los Angeles VORTAC 30-mile DME arc; then clockwise via the Los Angeles VORTAC 30-mile DME arc to intercept Los Angeles VORTAC 184°T(169°M) radial; then via the Los Angeles VORTAC 184°T(169°M) radial to the Los Angeles VORTAC 20-mile DME arc; then counterclockwise via the Los Angeles VORTAC 20-mile DME arc to intercept the Paradise VORTAC 267°T(252°M) radial; then via the Paradise VORTAC 267°T(252°M) radial to the Los Angeles VORTAC 25-mile DME arc; then counterclockwise via the Los Angeles VORTAC 25-mile DME arc to the point of origin.

Area H. That airspace extending upward from the surface to and including 12,500 feet MSL beginning at the intersection of the Ventura VORTAC 107°T(092°M) radial and the Los Angeles VORTAC 10-mile DME arc; then easterly via Ventura VORTAC 107°T(092°M) radial to intercept the Pacific Ocean shoreline; then via the Pacific Ocean shoreline southeasterly to intercept the Los Angeles VORTAC 184°T(169°M) radial; then via the Los Angeles VORTAC 184°T(169°M) radial to the Los Angeles VORTAC 10-mile DME arc; then clockwise via the Los Angeles VORTAC 10-mile DME arc to the point of origin.

Area J. That airspace extending upward from 2,000 feet MSL to and including 12,500 feet MSL beginning at the intersection of the Santa Monica, CA, VOR 267°T(252°M) radial and the Los Angeles VORTAC 20-mile DME fix; then easterly via the Santa Monica VOR 267°T(252°M) radial to intercept the Los Angeles VORTAC 10-mile DME arc; then counterclockwise via the Los Angeles VORTAC 10-mile DME arc to intercept the Los Angeles VORTAC 184°T(169°M) radial; then south via the Los Angeles VORTAC 184°T(169°M) radial to intercept the Los Angeles VORTAC 20-mile DME arc; then clockwise via the Los Angeles VORTAC 20-mile DME arc to the point of origin.

Area K. That airspace extending upward from 5,000 feet MSL to and including 12,500 feet MSL beginning at the intersection of the Los Angeles VORTAC 20-mile DME arc and the Ventura VORTAC 090°T(074°M) radial; then easterly via the Ventura VORTAC 090°T(074°M) radial to intercept the Los Angeles VORTAC 023°T(008°M) radial; then southerly via the Los Angeles VORTAC 023°T(008°M) radial to intercept Ballona Creek; then southwesterly via Ballona Creek to intercept the Ventura VORTAC 107°T(092°M) radial; then westerly via the Ventura VORTAC 107°T(092°M) radial to intercept the Santa Monica VOR 267°T(252°M) radial; then westerly via the Santa Monica VOR 267°T(252°M) radial to intercept the Los Angeles VORTAC 20-mile DME arc; then clockwise via the Los Angeles VORTAC 20-mile DME arc to the point of origin.

Issued in Washington, DC, on August 5, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

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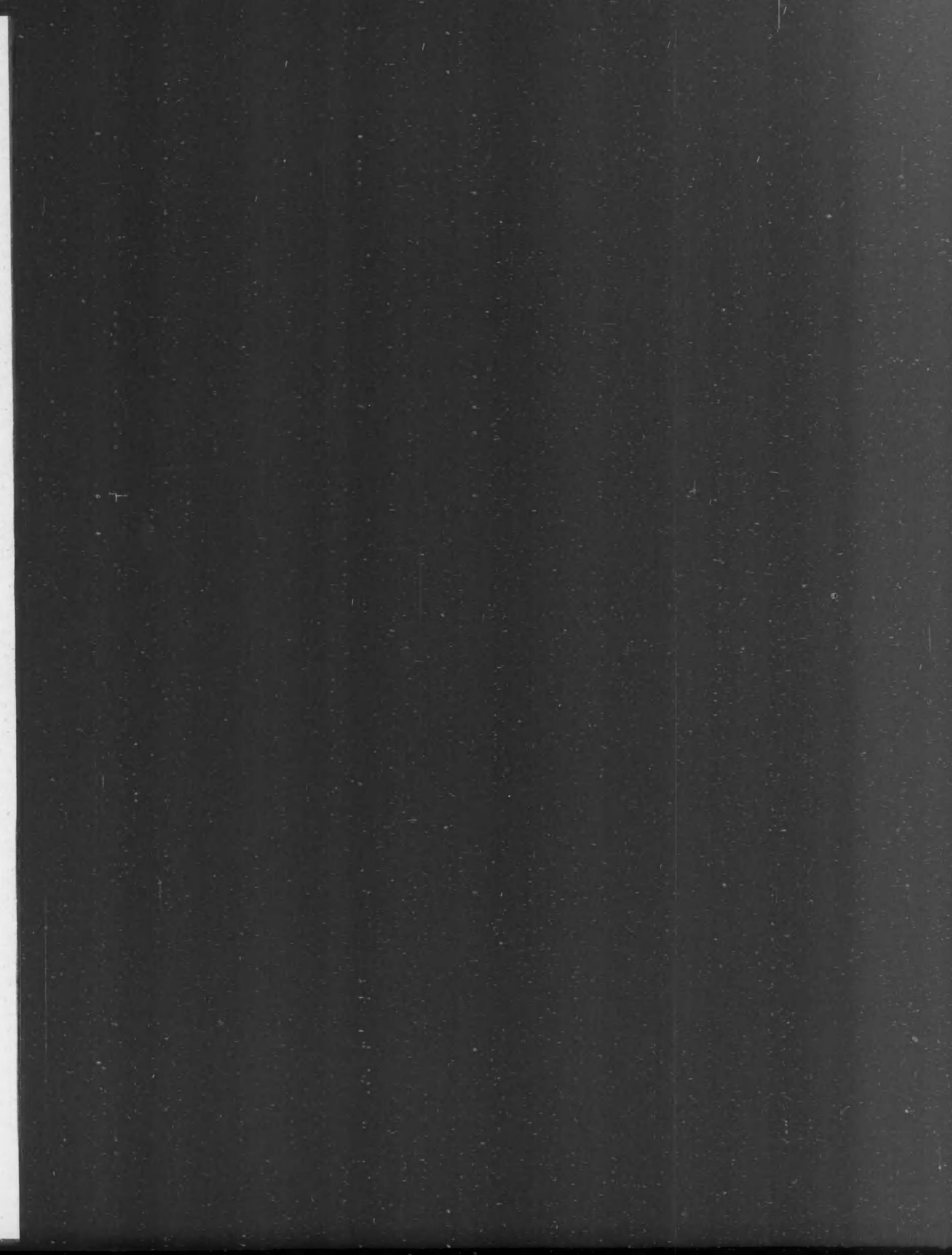

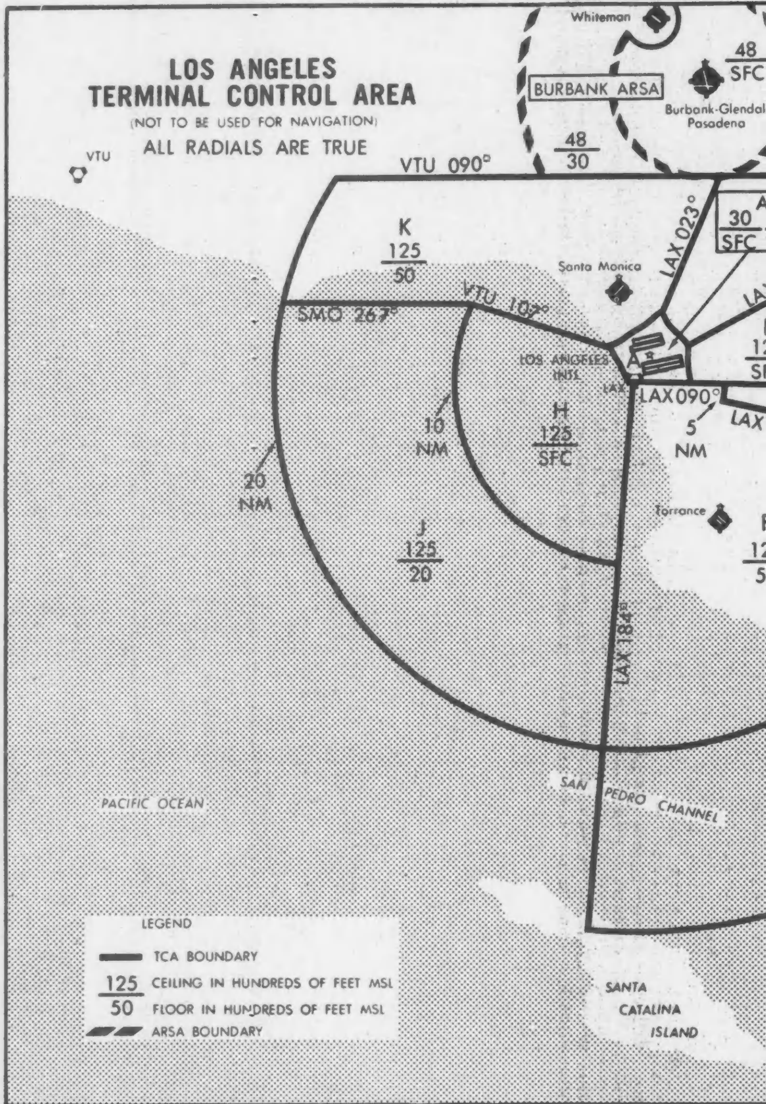

[FR Doc. 87-18117 Filed 8-7-87; 8:45 am]

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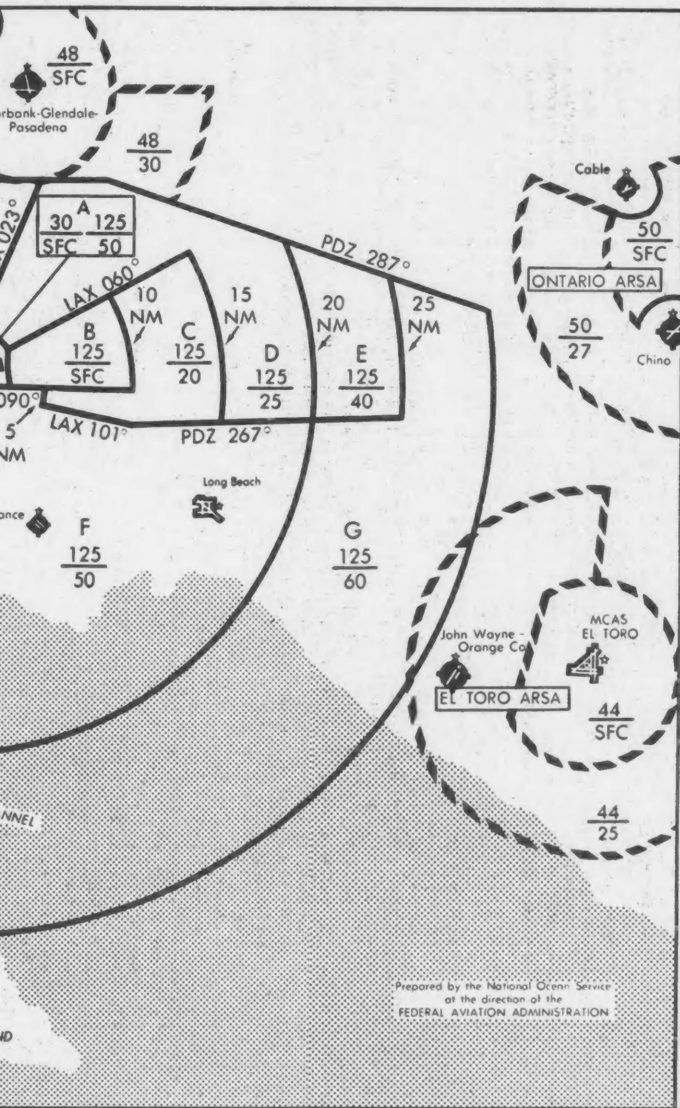
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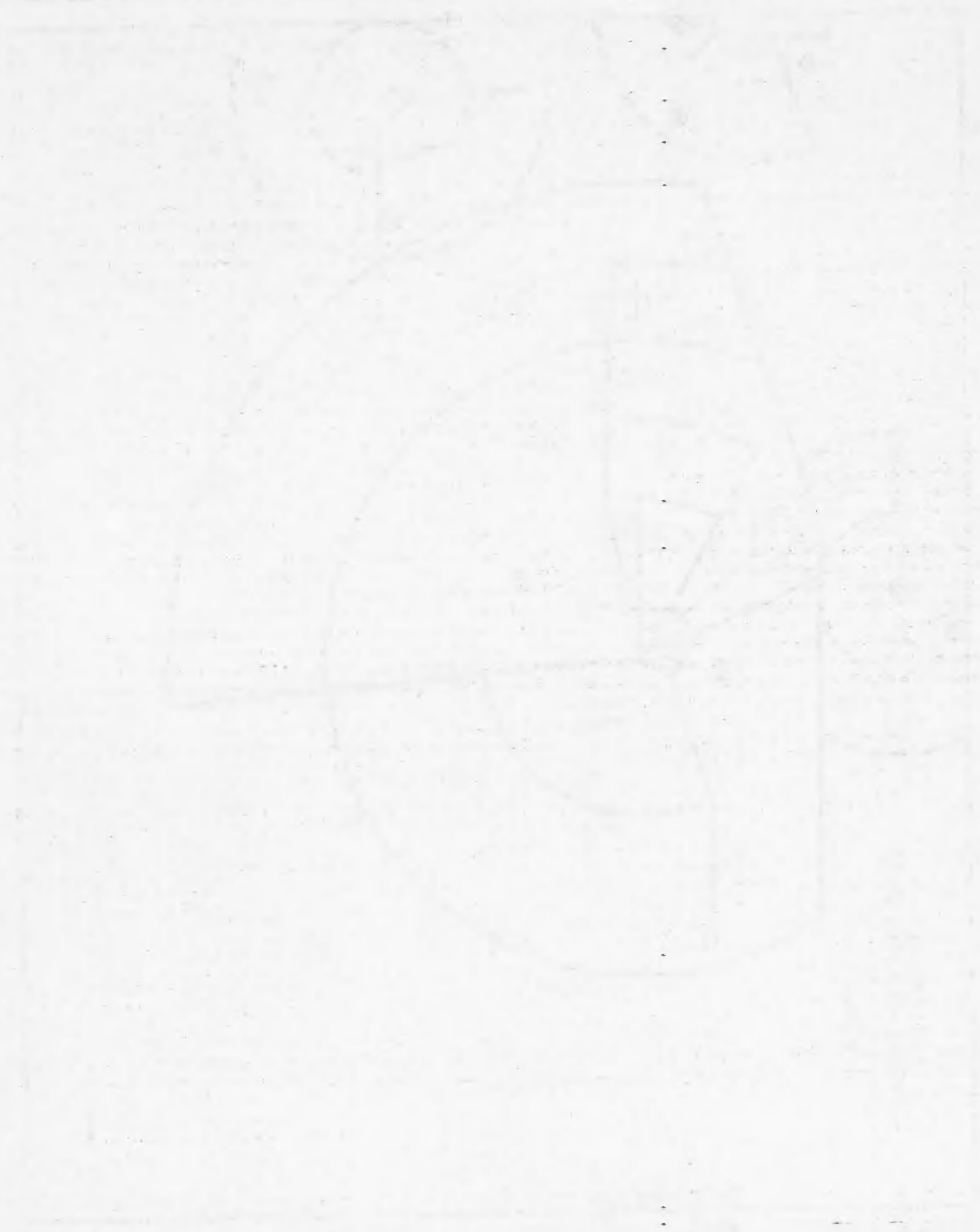

federal register

Monday
August 10, 1987

Part IV

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910
Hazardous Waste Operations and Emergency Response; Notice of Proposed Rulemaking and Public Hearings

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-760A]

Hazardous Waste Operations and Emergency Response

AGENCY: Occupational Safety and Health Administration; Labor.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is proposing to amend the OSHA standards for hazardous waste operations and emergency response in 29 CFR 1910.120. OSHA proposes a permanent final standard to replace the interim final rule as required by Congress in the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499). The interim final rule was published in the **Federal Register** on December 19, 1986 (51 FR 45654).

Employees involved in operations covered by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (CERCLA or "Superfund" Act) [42 U.S.C. 9601 *et seq.*], in certain hazardous waste operations conducted under the Resource Conservation and Recovery Act of 1976 as amended (RCRA) [42 U.S.C. 6901 *et seq.*], and in any emergency response to incidents involving hazardous substances would be covered by this proposed rule.

The issuance of this proposed rule is mandated by section 126(b) of SARA. The proposed rule will regulate employee safety and health at hazardous waste operations and during emergency response to hazardous substance incidents.

Informal public hearings on the subject of this rulemaking are scheduled to afford interested parties with the opportunity to comment on OSHA's proposals.

DATES: 1. Comments and information on this proposal must be received on or before October 5, 1987.

2. The informal public hearings will begin at 9:30 A.M. daily and are scheduled as follows:

October 13-16 and 20-23, 1987; Washington, DC
October 27-30, 1987; San Francisco, CA

3. Notices of intention to appear at the informal public hearings must be postmarked September 21, 1987.

4. Written comments, testimony, and all evidence which will be offered into the informal public hearing record must be postmarked by October 5, 1987. Because of the limited time frame allowed OSHA for development of the final rule as a result of the statutory guidance given in SARA, OSHA does not expect to grant requests for extensions of time for submitting comments in response to this notice.

ADDRESSES: 1. Comments and information on the proposal should be sent in quadruplicate to the Docket Office, Docket No. S-760A, Occupational Safety and Health Administration, Room N-3670, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Comments and information received, notices of intention to appear, testimony and evidence may also be inspected and copied in the Docket Office.

2. The informal public hearings will be held at the following locations:

a. Washington, DC—Frances Perkins Department of Labor Building Auditorium, 200 Constitution Avenue NW., Washington, DC 20210,

b. San Francisco, CA—Ramada Renaissance Hotel, 55 Cyril Magnin St. (Market at 5th Street), San Francisco, CA 94102. 415-392-8000.

3. Notices of intention to appear and testimony and documentary evidence which will be introduced into the informal public hearing record must be sent in quadruplicate to Mr. Thomas Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N-3649, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: *Proposed Rule:* Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210, 202-523-8151.

Public Hearing: Mr. Thomas Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210, 202-523-8615.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Environmental Protection Agency estimates that approximately 57 million metric tons of hazardous waste are produced each year in the United States[1]. These wastes must be treated and stored or disposed in a manner that protects the environment from the adverse affects of the various constituents of those wastes.

In response to the need to protect the environment from the improper disposal of these hazardous wastes, Congress, over the years, has enacted several pieces of legislation intended to control the nation's hazardous waste problem. Federal laws passed in 1965 [2] and 1970 [3] initially addressed solid waste disposal. Several other pieces of legislation have been enacted by Congress that have ultimately led to the development of this proposed rule and they are discussed below.

A. The Resource Conservation and Recovery Act of 1976

The first comprehensive, federal effort to deal with the solid waste problem in general, and hazardous waste specifically, came with the passage of the Resource Conservation and Recovery Act of 1976 (RCRA).[4] The act provides for the development of federal and state programs for otherwise unregulated land disposal of waste materials and for the development of resource recovery programs. It regulates anyone engaged in the creation, transportation, treatment, and disposal of "hazardous wastes." It also regulates facilities for the disposal of all solid wastes and prohibits the use of open dumps for solid wastes in favor of requiring sanitary landfills.

There are however many hazardous waste disposal sites that were created prior to the passage of RCRA. These sites are often abandoned and contain unknown quantities of unknown wastes.

B. The Comprehensive, Environmental Response, Compensation and Liability Act of 1980

In response to the need to clean-up and properly reclaim these pre-RCRA sites Congress enacted the Comprehensive, Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [5] commonly known as "Superfund." Superfund established two related funds to be used for the immediate removal of hazardous substances released into the environment. Superfund is intended to establish a mechanism of response for the immediate clean-up of hazardous waste contamination from accidental

[1] U.S. Environmental Protection Agency, *Everybody's Problem Hazardous Waste* at 1 (1980).

[2] Solid Waste Disposal Act, Pub. L. No. 89-272, 79 Stat 99.

[3] Resource Recovery Act, Pub. L. No. 91-512, 84 Stat 1427 and Pub. L. 93-14, 87 Stat II.

[4] 42 U.S.C. 6901 *et seq.*

[5] 42 U.S.C. 9601 *et seq.*

spills and from chronic environmental damage such as is associated with abandoned hazardous waste disposal sites.

The treatment and disposal of hazardous wastes under RCRA and CERCLA creates a significant risk to the safety and health of employees who work in treatment and disposal operations. Exposure to hazardous wastes through skin contact, skin absorption and inhalation pose the most significant risks to employees. Employee exposure to these risks occurs when employees respond to hazardous waste emergencies, when they work with hazardous wastes during storage, treatment and disposal operations or when they participate in the clean-up of abandoned-waste sites.

This risk of exposure and the need for protecting employees exposed to hazardous wastes is addressed in the "Superfund Amendments and Reauthorization Act of 1986" (SARA).

C. Superfund Amendments and Reauthorization Act of 1986

On October 17, 1986, the President signed into law the "Superfund Amendments and Reauthorization Act of 1986" (SARA).[6] As part of SARA, in § 126 of Title I, Congress addressed the risk of injury to employees by providing that the Secretary of Labor ("Secretary") issue interim final worker protection regulations within 60 days after the date of enactment of SARA that would provide no less protection for workers engaged in hazardous waste operations than the protections contained in the U.S. Environmental Protection Agency's (EPA) "Health and Safety Requirements for Employees Engaged in Field Activities" manual (EPA Order 1440.2) dated 1981, and the existing OSHA standards under Subpart C of 29 CFR Part 1926. OSHA published those interim final regulations in the **Federal Register** on December 19, 1986 (51 FR 45654). A correction notice was published on May 4, 1987 (52 FR 16241). With the exception of a few provisions that had delayed start-up dates, OSHA's interim final regulations became effective on December 19, 1986 in accordance with section 126(e), and apply to all regulated workplaces until the final rule developed under sections 126(a)–(d) and proposed today becomes effective.

Section 126(a) of SARA provides that the Secretary shall ". . . pursuant to section 6 of the Occupational Safety and Health Act of 1970, promulgate standards for the health and safety of employees engaged in hazardous waste operations." These standards must be promulgated within one year after the date of enactment of SARA. This notice initiates the development of those standards by issuing proposed regulations as indicated in section 126(b) of SARA. SARA further provides in section 126(b), that the proposed regulations address, as a minimum, certain worker protection provisions. These are: site analysis, training, medical surveillance, personal protective equipment, engineering controls, maximum exposure limits, informational programs, materials handling, new technology programs, decontamination procedures, and emergency response. While some of these worker protection provisions were addressed in the interim final rule, this proposed rule will address, as a minimum, all provisions under section 126(b) of SARA.

Pursuant to section 126(c) of SARA, the final regulations promulgated under section 126(a) are to take effect one year after the date they are promulgated. Section 126(c) also provides that the final regulations are to include each of the worker protection provisions listed in section 126(b) unless the Secretary determines that the evidence in the public record developed during this rulemaking and considered as a whole does not support inclusion of any such provision.

This proposed rule has been adapted from the language of the interim final rule. Changes have been made to address more fully the provisions which Congress had directed the Agency to cover in the proposal. OSHA utilized the language from the EPA manual entitled "Health and Safety Requirements for Employees Engaged in Field Activities" (1981) and the language of OSHA's safety and health standards in Subpart C of 29 CFR Part 1926 to develop the interim final rule, and much of that same language is also used in this proposal. The interim final rule also contains language taken from various documents issued either jointly or by the EPA, OSHA, the U.S. Coast Guard, and the National Institute for Occupational Safety and Health (NIOSH), and that language has also been used in preparing this proposed rule.

OSHA has specifically used the joint OSHA/EPA/USCG/NIOSH manual entitled, *"Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities"* (Preamble Reference 6), as an outline in preparing the interim rule and this proposal. This manual was developed as a result of the collaborative efforts of professionals representing the four agencies. These professionals, who are knowledgeable in hazardous waste operations, worked with over 100 experts and organizations in the development of the criteria contained in this manual. The manual was published in October 1985 and is public information. The manual is a guidance document for managers responsible for occupational safety and health programs at inactive hazardous waste sites. The manual is intended for use by government officials at all levels and contractors involved in hazardous waste operations. The manual provides general guidance and is intended to be used as a preliminary basis for developing a specific health and safety program for hazardous waste operations. Further, the major subject areas listed in section 126(b) of SARA are nearly identical to the major chapters in the manual. The language of the proposed rule also clarifies some confusion in the interim rule that OSHA has identified since the promulgation of the interim final rule.

II. Summary and Explanation of the Standard

Paragraph (a)—Scope, application, and definitions

In paragraph (a)(1), *Scope,* OSHA proposes to use the scope of the interim final rule for Hazardous Waste Operations and Emergency Response as published in the **Federal Register** on December 19, 1986 (51 FR 45654) with some modification. The scope of the interim rule included the following:

(i) Hazardous substance response operations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (CERCLA), including initial investigations at CERCLA sites before the presence or absence of hazardous substances has been ascertained:

(ii) Major corrective actions taken in clean-up operations under the Resource Conservation and Recovery Act of 1976 as amended (RCRA);

(iii) Operations involving hazardous waste storage, disposal and treatment facilities regulated under 40 CFR Parts 264 and 265 pursuant to RCRA, except for small quantity generators and those employers with less than 90 days accumulation of hazardous wastes as defined in 40 CFR 262.34;

(iv) Hazardous waste operations sites that have been designated for clean-up by state or local governmental authorities; and

(v) Emergency response operations for releases or substantial threats of releases of hazardous substances, and post-emergency response operations to such releases at all workplaces including those not defined in paragraphs (a)(1)(i) through (a)(1)(iv).

OSHA is proposing to modify paragraph (a)(1) of the interim rule by

[6] Pub. L. 99–499.

moving the exception in paragraph (a)(1)(iii) to paragraph (a)(2)(iii) and by editorially revising the structure and text of the language of the interim rule without changing the scope in the proposal. The modifications to the text are to organize the various subparagraphs on scope into proper groups of coverage.

To further clarify scope, non-emergency response coverage has been left in paragraph (a)(1) and emergency response coverage has been given its own paragraph in (a)(2). The scope for emergency response has been clarified as well. The change makes clear that it is employers whose employees have a "reasonable possibility" of engaging in emergency response operations are covered. Employers whose employees would not have such a reasonable possibility are not covered.

Who is Covered?

The scope of this rulemaking has been a major issue during the development and promulgation of the interim final rule and this proposal. OSHA is requesting specific comment on whether our interpretation of scope is too broad or too narrow.

The proposed standard would cover the same three basic areas covered by the interim final rule.

I. CERCLA Facilities

For the purposes of this proposal, CERCLA sites include hazardous substance response operations at sites regulated under 40 CFR 300, Subpart F, RCRA closure activities conducted under 40 CFR 265, Subpart G, those sites similar to CERCLA sites that have been designated for clean-up by State or local governments.

II. RCRA Facilities

OSHA would also continue to regulate RCRA treatment, storage and disposal (T/S/D) facilities. T/S/D facilities range from the typical generator with a hazardous waste storage area to the large, complex hazardous waste dump. EPA estimates that approximately 80 percent of all generators also treat, store, or dispose of their hazardous wastes and thereby qualify as a T/S/D facility. Over 30,000 T/S/D facilities notified EPA in 1980 that they would qualify for regulation under section 3004 of RCRA.

The term "T/S/D" is commonly used to refer to the three different hazardous waste management activities that are regulated under RCRA section 3004, and which thus require a permit under RCRA section 3005. For the purposes of this rule treatment, storage, and disposal facilities are defined as follows:

A "treatment facility" involves any place of employment where any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduce in volume.[7]

The term "storage facility" refers to any place of employment used to hold hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.[8]

The term "disposal facility" refers to any place of employment used for the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharge into any water, including ground waters.[9]

The following T/S/D facilities would not be covered by this rulemaking:

1. Facilities that dispose of hazardous waste by means of ocean disposal pursuant to a permit issued under the Marine Protection, Research, and Sanctuaries Act.

2. The disposal of hazardous waste by underground injection pursuant to a permit issued under the Safe Drinking Water Act underground injection control program.

3. A publicly owned treatment work (POTW) which treats or stores hazardous wastes which are delivered to the POTW by a transport vehicle or vessel or through a pipe.

4. T/S/D facilities which operate under a state hazardous waste program authorized pursuant to RCRA section 3006.

5. Facilities authorized by a state to manage industrial or municipal solid waste, if the only hazardous waste handled by such a facility is otherwise excluded from regulation pursuant to the special requirements for small generators (See 40 CFR 261.5).

6. A facility which treats or stores hazardous wastes that are subject to the special requirement for hazardous wastes which are used, reused, recycled or reclaimed. Note, however, that as provided by 40 CFR 261.6(b), a facility must obtain a permit as a storage facility if it stores "listed" hazardous wastes, mixtures including a "listed" hazardous waste, or sludges, prior to use, reuse, recycling, or reclaimation.

7. The accumulation of hazardous waste by generators for 90 days or less.

8. Farmers who dispose of waste pesticides from their own use in compliance with 40 CFR 262.51.

9. Owners or operators of a "totally enclosed treatment facility." A totally enclosed treatment facility is one where the treatment of hazardous waste which is directly connected to an industrial production process which is conducted and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

10. Owners and operators of elementary neutralization units and waste-water treatment units.

11. Persons taking immediate action to treat and contain spills. Note that after immediate response activities are completed, any hazardous waste spill residue or debris is subject to full regulation.

12. Transporters storing manifested wastes in approved containers at a transfer facility for 10 days or less.

13. The acts of adding absorbent material to hazardous waste in a container and adding hazardous waste to absorbent material in a container, if the materials are added when wastes are first placed in the container.[10]

III. Emergency Response

This proposal would also continue to cover emergency response to releases of hazardous substances at all sites including non-CERCLA and non-RCRA sites.

OSHA believes that Congress intended the proposed rule to have such coverage. This is indicated by the language of SARA as well as the legislative history.

The language of section 126(a) mandates safety and health standards for the protection of employees engaged "in hazardous waste operations." The term "hazardous waste operation" is not limited in the legislation and a response to spills of hazardous substance on the highway or from a railway tank car in order to control and contain the hazardous substance (which has become a waste once it is not contained) is in the common sense meaning a hazardous waste operation.

This interpretation is reinforced by the fact that SARA is a free-standing

[7] 40 CFR 260.10(a).

[8] *Id.*

[9] *Id.*

[10] 40 CFR 265.1(c), 264.1(c), *as amended*, 47 FR 8306 (February 25, 1982).

statutory provision and not an amendment to CERCLA. The clear Congressional intent then is to provide protection to employees whenever they deal with hazardous wastes.

In addition section 126(d)(4) discussing training for emergency response personnel utilizes the very broad term "hazardous emergency situation." Section 126 (g)(1) indicates that training grants may be given independently for emergency response training separate from hazardous waste removal training. Section 126(b)(11) also indicates emergency response is an independent concept separate from hazardous waste removal operations. For those and other reasons OSHA believes section 126 is intended to cover emergency response to hazardous substances whether on a CERCLA or RCRA site or elsewhere. However, the clarified language in the scope sections makes it clear the only employers whose employees have the reasonable possibility of engaging in emergency response are covered.

Emergency response employees who respond or will respond to incidents involving hazardous substances are covered by this proposed rule to the extent that they are exposed to hazardous substances. State and local government employees in states that have agreements with OSHA under section 18 of the OSH Act must be regulated by state regulations at least as effective as these to protect public employees. Those state regulations must be issued within six months of the date of promulgation of any final rule resulting from this rulemaking.

Municipal or other sanitary landfills that handle domestic wastes would not normally be regulated by this proposed rulemaking. Similarly, waste paper or scrap metal operations would not normally be regulated because of the type of wastes they handle. However, both types of operations could be regulated if they have clean-ups for or handle hazardous wastes meeting the scope provisions of the standard.

Also, employees at hazardous waste sites who will not be exposed to, or do not have the potential to be exposed to, hazardous substances are not covered by this proposal. The provisions of these regulations are designed to protect employees who have exposures, and would not be needed for those employees who do not.

Operations with no exposure to hazardous substances, i.e., road building for site access, construction of or the setting up of temporary facilities in the clean zone, or the closure of a RCRA site involving the building of a clay cap over hazard wastes, are considered to be construction activities covered by the standards in 29 CFR Part 1926.

The scope and application provisions carry out the intent of Congress and are consistent with good occupational safety and health policy. Employees performing clean-up operations under CERCLA, RCRA (corrective actions) and state or local government designated sites—generally those employees likely to have the highest exposures to hazardous substances over a longer period—would be covered by virtually all the provisions of this proposal. Employees exposed to hazardous wastes in routine RCRA hazardous waste operations, who are regularly exposed to hazardous wastes but in a more controlled environment, would be covered by the more limited requirements of paragraphs (l) and (o) of this proposal. Emergency response workers, exposed usually for short periods to often unknown but possibly high levels of hazardous substances, would have the specific provisions of paragraph (l) directed towards this situation.

How Are They Covered?

In paragraph (a)(3), *Application,* OSHA proposes to designate the specific requirements of the proposal which apply or do not apply to the work activities covered by the proposed rule. In paragraph (a)(3)(i) the employer would have to comply with the standards in 29 CFR Parts 1910 and 1926, as well as with the requirements specifically covered in this proposed rule. If there is a conflict or overlap, the more protective provisions would apply. Since this proposed rule does not cover all of the hazards present at hazardous waste operations, other OSHA standards in Parts 1910 and 1926 would apply. Other OSHA standards regulate many other hazards, and OSHA wants to make clear that the other standards continue to apply. Also, hazardous waste operators who are not within the proposed scope of this standard would continue to be regulated by the Parts 1910 and 1926 standards.

In paragraph (a)(3)(ii) OSHA proposes that all paragraphs of this section except paragraph (o) would apply to hazardous wastes operations at CERCLA sites, at major corrective action at RCRA sites, and at sites designated for clean-up by state and local governments. This part of the proposal has been taken directly from the interim final rule.

In paragraph (a)(3)(iii), OSHA proposes that the requirements set forth in paragraph (o) of this section would specifically apply only to the hazardous waste operations at RCRA sites which are involved in treatment, storage, disposal and handling of hazardous waste. The proposed limited exclusion of small quantity generators and less than 90-day accumulators would exclude from these regulations certain operations, such as dry cleaners and gas stations, which come within the purview of RCRA, but are not hazardous waste operators in the normal meaning of the term. The exclusion would depend upon the employer's decision to provide or not provide emergency response by employees to releases of, or substantial threats of releases of, hazardous substance.

OSHA proposes to exempt totally small quantity generators and less than 90 day accumulators from the rule if they *do not* provide emergency response by their employees to releases of, or substantial threats of releases of, hazardous substances. OSHA further proposes to exempt small quantity generators and less than 90 day accumulators from all parts of the rule except paragraph (l) when they do provide emergency response by their employees to releases of, or substantial threats of releases of, hazardous substances.

OSHA recognizes that many small quantity generators and less than 90 day accumulators consist of smaller businesses with limited employee populations (less than 10 employees). Since most of these establishments rely on the emergency response services of local fire and rescue departments, OSHA is providing relief from these proposed standards when the employer can show that employees will not be exposed to hazardous substances as a result of providing employee emergency response. In cases where such establishments do provide employee emergency response, and thereby expose employees to hazardous substances, OSHA is proposing that such employers meet the emergency response requirements of paragraph (l) of this proposed rule.

Without these exemptions, these proposed regulations could be interpreted to cover gas stations, dry cleaners, and other small businesses which temporarily store small quantities of a hazardous waste. These businesses are not engaged in hazardous waste operations as that term is conceived of normally. In addition, it is not believed that Congress intended such businesses to be covered. They do not present the relatively high exposure to a number of hazardous health risks to employees that hazardous waste sites typically do.

The approximately 4,000 RCRA sites where reasonably large quantities of hazardous wastes are regularly handled,

treated and stored would be covered by the proposed rule. This reflects the legislative intent, meets the normal meaning of hazardous waste operations and covers the type of safety and health hazards that this regulation is designed to control. This limited exclusion reflects an exemption previously contained in paragraph (a)(1)(iii) of the interim final rule.

In paragraph (a)(3)(iv) OSHA proposes that the requirements set forth in paragraph (l) of this section would specifically apply to the work conducted by emergency response personnel when they respond to hazardous substance emergency incidents. Emergency response personnel include non-employees (i.e., firefighters, EMS personnel, and police) as well as employees.

OSHA requests comment on its approach to coverage and its determination of which provisions apply to various types of operations. It also requests comment on whether other operations should be and are intended to be covered by Congress, and whether specific operations should be excluded because of low exposures.

In paragraph (a)(4), *Definitions*, OSHA proposes to define various terms used in this rulemaking. The definitions for hazardous substances and hazardous wastes have been taken from the U.S. Environmental Protection Agency (EPA) and U.S. Department of Transportation (DOT) regulations and include those used in the interim rule. OSHA is proposing to modify some of the definitions used in the interim rule where some confusion occurred over the meaning of some of the definitions used in the interim rule. For example, the definition for "emergency response" has been modified to indicate more clearly the type of response that OSHA will be regulating. The definition used in the interim rule implied to many readers of that rule that any response to incidental spills would be considered emergency response. The agency did not intend to regulate employee response to incidental spills that could be cleaned-up or stabilized by the employees in the immediate spill area without the need of a coordinated spill-control response from throughout the workplace. Further, the agency did not want to cover releases of hazardous substances that did not expose employees to exposures of hazardous substances above the established permissible exposure limits of this rule.

The term "established exposure levels" is defined to indicate the levels which, if exceeded for 30 or more days per year, trigger medical surveillance of the exposed employees. The term includes not only OSHA established PELs, but also exposure limits suggested by NIOSH and ACGIH. OSHA feels that it is appropriate to go beyound the OSHA established PELs in triggering medical surveillance because of the broadly-worded language in section 126(b)(3), which requires medical surveillance for workers engaged in hazardous waste operations "which would expose them to toxic substances."

The term "permissible exposure limits" is defined as the inhalation or dermal permissible exposure limit specified in 29 CFR Part 1910, Subpart Z. These limits indicate the exposure levels to be achieved by the hierarchy of controls listed in paragraph (g)(1)(i). Employers must set appropriate exposure levels to determine PPE use for substances listed by ACGIH and NIOSH taking into account the levels recommended by those organizations.

The definition in the proposal has been changed from the interim rule. Limits not set by OSHA, NIOSH and ACGIH have been excluded. They would not be generally known and would not have the sanction of an official organization.

OSHA is also incorporating a definition for "qualified individual," a person who has qualifications by training and experience for the task(s) for which the individual is responsible. That definition is rather general, but a detailed requirement for each task would lead to a lengthy and inflexible regulation.

The use of other agency definitions has been proposed to assure consistency and compatibility between this proposed rule and the rules and regulations of the EPA and DOT. The remaining definitions have been taken for the most part from SARA, the four agency manual (Reference 6) or existing OSHA standards.

OSHA requests comment on whether its definitions of hazardous waste, health hazard and hazardous substance are consistent with EPA and DOT practice. OSHA requests comment on whether the term "established permissible exposure limit" achieves its goals.

Paragraph (b)—General Requirements

In paragraph (b)(1)(i) OSHA is proposing to require employers to develop and implement a safety and health program for employees involved in hazardous waste operations. The proposed rule makes it clear that the program is to be in writing. That was implicit in the interim rule. The program needs to be in writing so that employers and employees know clearly what to do to handle hazardous substances. If it were not in writing uncertainty could lead to injury and overexposures.

Such programs are part of the requirements mandated in section 126(b)(7) of SARA. Subpart C of 29 CFR Part 1926 requires such a program in § 1926.20(b), and EPA Order 1440.2, on page 5, further requires training in "safety plan development." OSHA's experience also establishes that a safety and health program is necessary to protect employees so that hazards are assessed and control programs are systematically laid out. OSHA section 6(b) health standards require a compliance plan to set forth a health program to protect employees from regulated hazards.

The proposed employer's safety and health program would have to provide for an organizational structure, a comprehensive workplan, and a site-specific safety and health plan as proposed in paragraph (b)(1)(ii) through (b)(1)(iv). The site-specific safety and health plan would have to address the anticipated safety and health hazards of each work operation or activity, and the means to eliminate the hazards or to effectively control them to prevent injury or illness.

The site-specific safety and health plan is necessary to help protect employee safety and health. There are many hazards at a hazardous waste operation which need to be determined and addressed prior to the exposure of employees. The proposed plan provides that this will be done in a systematic manner so that hazards will not be missed, and so that needed protective action will not be overlooked. The approach used has been adapted from reference 6.

The general requirements found in paragraph (b)(2) through (b)(13) of the interim final rule would be eliminated by this proposal. Those paragraphs of the interim final rule merely directed the reader to the appropriate paragraphs of the interim final rule for the specific regulations on a topic. The paragraphs of the interim final rule served only as an index for the interim final rule and OSHA does not believe such an index is necessary for this proposal. The duty requirement for compliance with specific requirements is implicit in the paragraphs addressing a specific hazard.

Paragraph (b)(2) would require that site excavations be shored or sloped as appropriate and the employers comply with Subpart P of 29 CFR Part 1926 for site excavations created during initial site preparation or during hazardous waste operations. The language of (b)(2)

is the same as paragraph (b)(14) of the interim rule. OSHA considers that those provisions already apply, but they are specifically cross referenced because they are particularly important since significant excavation activity often occurs on hazardous waste sites.

Paragraph (b)(3) would require employers to notify contractors and subcontractors of the hazards identified by the employer at hazardous waste operations. The language of (b)(3) is the same as paragraph (b)(15) of the interim rule. Sections 126(b)(2) and 126(e) of SARA indicate Congress's specific interest in protecting employees of contractors, and in involving contractors in the safe operation of hazardous waste sites. This provision would assist the contractor in becoming aware of the operational risks so that the contractor's employees may be better protected.

Paragraph (c)—Site Characterization and Analysis

The employer needs to know the hazards faced by employees in order to develop and implement effective control measures. Site characterization provides the information needed to identify site hazards and to select employee protection methods. The more accurate, detailed, and comprehensive the information available about a site, the more the protective measures can be tailored to the actual hazards that the employees may encounter. Congress clearly intended that such a requirement be included. Section 126(b)(1) of SARA provides that the proposal include "requirements for a formal hazard analysis of the site . . . ." Therefore, OSHA is proposing to use the language from the interim rule as the language for the proposed paragraph (c).

It is important to recognize that site characterization is a continuous process. At each phase of site characterization, information is obtained and evaluated to define the potential hazards of the site. This assessment is to be used to develop a safety and health plan for the next phase of work. In addition to the formal information gathering that takes place during the phases of site characterization described above, all site personnel should be constantly alert for new information about site conditions.

Paragraph (d)—Site Control

This paragraph would require the employer to develop a site control program, as part of the employers' site safety and health plan, to minimize potential contamination of employees. This program would be a part of the safety and health program required by paragraph (b). Several items, such as establishing work zones, need to be considered so that employees know the hazards in different areas, and this will keep out of hazardous areas where their presence is not required.

Site control is especially important in emergency situations. Paragraph (d)(2) would describe the minimum basic components of a program to control the activities and movements of employees and equipment at a hazardous waste site.

The text proposed in this paragraph has been adapted from the interim rule. The need for site control is called for in item 9 of the EPA Order 1440.2. In addition, Subpart C of 29 CFR Part 1926 provides for regular inspection of job sites so hazards on the site can be controlled.

Paragraph (e)—Training

The proposed rule includes specific provisions for initial and routine training of employees before they would be permitted to engage in hazardous waste operations that could expose them to safety and health hazards. Section 126(b)(2) of SARA requires initial and routine training to be included in the proposal. The intent of the proposed training provisions is to provide employees with the knowledge and skills necessary to perform hazardous waste clean-up operations with minimal risk to their safety and health.

The proposed requirements for training in paragraph (e) address the needs of employees who will be working at CERCLA sites, certain RCRA sites, and sites designated for clean-up by state or local governments.

The proposed provisions include a minimum of 40 hours of initial instruction off the site, and a minimum of three days of actual field experience under the direct supervision of a trained and experienced supervisor, at the time of job assignment. Congress has specifically imposed these hour and day requirements under section 126(d) of SARA for the proposed final standard. The proposed requirement is a one-time effort by the employer for each employee covered by this standard. Employees do not need to be retrained for 40 hours at each site at which they work. Employees who have received the required training at one site can use that training to meet this requirement at other sites even if it involves a different employer.

There are often many hazards at a waste site. The employee would be trained to recognize the hazards and appropriate work practices to minimize those hazards. The employee would also be well trained in the use of respirators and other forms of personal protective equipment. Without training, that equipment may not be used effectively and may not provide adequate protection. An extensive training program is necessary to assure that employees can use personal protective equipment effectively. The proposed paragraph would specify the items needed for effective training to avoid hazards.

Managers and supervisors at the waste site who are directly responsible for hazardous waste site operations would require the same training as that of employees under this proposal, and at least eight additional hours of specialized training on managing hazardous waste operations. Since these managers and supervisors are responsible for directing others, it is necessary to enhance their ability to provide guidance and to make informed decisions. Section 126(d)(2) of SARA provides that there shall be eight hours of additional training for supervisors and managers.

The provisions also propose that employees be retrained on an annual basis on relevant matters such as review of health hazards and the use of personal protective equipment. Employees at hazardous waste operations face serious health and safety risks. Reminders are needed of this and of work practices necessary to avoid hazards. Personal protective equipment provides much of this protection. If there is no retraining in the use, care and maintenance of personal protective equipment, such equipment is unlikely to be properly utilized to provide adequate protection. The proposal would provide eight hours of annual retraining. The EPA manual for refresher training (item #10) requires this amount of training.

In all areas of training, whether it be for general site employees, supervisors at the site, or for the use of specific equipment, the level of training provided shall be consistent with the worker's job function and responsibilities. Refresher training shall be supplied to reemphasize the initial training and to update employees on any new policies or procedures.

Section 126(d)(3) of SARA requires that the proposal include provisions for certification that an employee has received the training required by the standard. Section 126(d)(1) provides that the proposal not require training for employees who have already received equivalent training. The proposed standard has provisions to meet this directive.

OSHA requests comment as to whether this or a greater or lesser

amount of training is appropriate for those operations.

Paragraph (f)—Medical surveillance

The proposed rule includes specific provisions for baseline, periodic and termination medical examinations. Section 126(b)(3) of SARA provides that the proposal include requirements for medical examinations of workers engaged in hazardous waste operations. In addition, the EPA manual referred to in section 126(e) of SARA has more detailed requirements for initial or baseline, periodic and termination medical examinations. The clear Congressional direction is to provide a comprehensive medical surveillance program for employees engaged in hazardous waste operations where it is medically prudent.

In paragraph (f)(1)(i) OSHA proposes that medical surveillance is to be provided to employees who have been or are expected to be exposed to hazardous substances or health hazards above established permissible exposure limits without regard to the use of respirators for 30 or more days in a 12-month period, or who wear respirators 30 days during the year. These are the employees who will be at a greater health risk, and employees who wear respirators need to be examined to determine whether they can safely do so as a routine matter. Some dividing line is needed, because employees who might be present on a hazardous waste site only a few days a year, or working in areas such as offices on the periphery of the hazardous area where exposures are low, would not have a special requirement for medical surveillance as a result of their employment. Their likely cumulative exposures to toxic chemicals would be very low, probably not significantly higher than the general population. The EPA manual indicates some dividing line is appropriate because it directs medical surveillance only for employees "routinely" exposed.

It is proposed in paragraph (f)(1)(ii) that wearing respirators for any part of each of 30 days would require medical surveillance because such usage indicates routine exposure to toxic chemicals. There is no requirement that there be 240 hours of respirator use before medical surveillance is required. Similarly being exposed over established safe levels to several chemicals each for less than 30 days, but totalling more than 30 days per year, requires medical surveillance. This exposure indicates routine exposures to hazardous substances and also combinations of chemicals, and may cause synergistic effects creating greater health hazards than exposure to an individual chemical.

For employees who may have been exposed during an emergency incident to hazardous substances at concentrations above the permissible exposure limits without the necessary personal protective equipment being used, and for employees who are injured due to overexposure during an emergency incident, OSHA is proposing in paragraph (f)(1)(iii) that a medical examination or consultation be made available by the employer to affected employees for each incident. A continued medical surveillance program for these employees is not proposed to be required unless they also are covered under the provisions of paragraphs (f)(1)(i) and (f)(1)(ii) as discussed above.

In paragraph (f)(2), OSHA is proposing the frequencies for medical examinations and consultations to be provided to employees.

OSHA's proposal would require an initial or baseline medical examination, either prior to the start-up date for employees who are currently working at hazardous waste sites or prior to initial assignment to an area where medical examinations will be required. The purpose or the intent of baseline medical examinations is to take a detailed medical history, and where possible to develop a health baseline prior to any exposures so as to be able to evaluate changes which may be connected to hazardous substance exposures. In addition, the initial examination would permit evaluation of whether the employee can appropriately wear a respirator, and whether the employee has preexisting conditions which would make exposure to hazardous substances inappropriate. An initial examination has been required by other OSHA health standards, and is recommended in Reference 6 and required by the EPA.

The periodic examinations are required yearly. OSHA's experience in other health standards has been that this is an appropriate period, and it is also recommended by Reference 6. EPA's medical monitoring program guidelines cross-referenced in the EPA manual recommends baseline annual examination generally, as well as a termination examination. It is reasonable to determine periodically whether exposures have induced medical changes and to identify conditions caused by chemicals at an early stage to permit more effective treatment. In some circumstances, the physician may advise more frequent examinations. OSHA requests comment on whether yearly or another frequency for periodic examinations is most appropriate.

Examinations are also to be provided when the employee brings to the employer's attention signs or symptoms indicating possible overexposure to hazardous substances. The employee is to be trained in recognizing what symptoms may indicate that the employee has been exposed to a hazardous substance. Examples of such systems may be dizziness or rashes. Examinations are also required, when medically appropriate, during emergencies when exposure to higher levels is possible. For example, a urinary phenol test is appropriate for employees exposed to high levels of benzene.

Finally, employees who have been required to have medical examinations must also be given an examination upon termination of employment, or upon reassignment to an area where medical examinations are not required. This examination is proposed to detect conditions which have developed prior to departure and is recommended by the EPA program. The proposed provision does not require a termination examination if the employee has had an examination within the prior six months. The EPA guideline has that exception, but qualifies it only if the employee has had no significant exposures in the interval. OSHA requests comments on the appropriate provisions for a termination examination.

In paragraph (f)(3), OSHA would establish the content of medical examinations and consultations provided to employees.

In situations where most of the employees on the site have similar exposures, the protocol may be similar for all employees. Where different groups of employees on the site have substantially different exposures, several different protocols may be appropriate for the site's workers depending on exposures.

There are a number of sources for guidance on specific medical examination protocols. Chapter 5 of Reference 6 provides such guidance by groups of chemicals likely to be present on a site. It references other authorities. The manual should be supplied to the physician. It is also a basis for the medical surveillance program required by this paragraph. In addition, the EPA medical monitoring program guidelines referenced by the EPA manual provides guidance on specific protocols.

In paragraph (f)(4), OSHA proposes that the medical examination would have to be provided under the supervision of a licensed physician. As

provided by section 6(b)(7) of the OSH Act, the employer would have to pay the cost of the examination. In addition, provisions are proposed so that the employee is not discouraged from taking the examination. The examination would have to be given at a reasonable time and place. If given during regular working hours, it is proposed that the employees shall receive their normal pay for that time. If the examination is given outside regular working hours, it is proposed that the employee shall be paid regular wages for the time spent taking and waiting for the examination.

In paragraph (f)(5), OSHA proposes that the appropriate medical tests and examinations depend on the substances to which an employee is exposed, and to whether or not the employee wears a respirator. As employees on hazardous waste sites may be be exposed to differing substances, the proposed paragraph can not specifically state the required tests. Consequently the proposal states that the employer provide to the physician information on exposures, respirator use, and duties on the site. The physician is then to determine the appropriate medical surveillance protocol in terms of specific tests and examinations. As a result of the employer specifying duties, the physician can also judge whether the employee can handle the physical difficulty of the work. OSHA requests comment on whether it should include protocol for medical surveillance, and if so what that protocol should be.

In paragraph (f)(6) OSHA is proposing that the physician make a report to the employer of medical conditions which may make the employee at increased risk to work at the site, and any recommendations on limitations on use of respirators and other PPE as a result of the medical conditions. This will provide guidance for the safe employment of the employee at the site. Under the proposal, the physician could not reveal to the employer diagnoses or conditions unrelated to employment, but could inform the employee directly of those conditions and any and all occupationally related conditions. OSHA requests comment on whether medical removal protective provisions are medically necessary, feasible and appropriate.

In paragraph (f)(7) OSHA would that appropriate records be kept to assist in future evaluation of the employee's health. Secondarily, this information may assist in research on occupational related disease. It is proposed that records should be kept pursuant to the provisions of 29 CFR 1910.20. Full consideration was given in that standard to appropriate retention periods.

OSHA specifically requests comment on whether these or other criteria are the most appropriate for determining which employees should receive medical surveillance, taking into account both medical and administrative factors.

Paragraph (g)—Engineering Controls, Work Practices, and Personal Protective Equipment

It is proposed that anyone entering a hazardous waste site be protected against potential hazards. The purpose of proposing engineering controls, work practices, and personal protective equipment (PPE) is to shield or isolate employees from the chemical, physical, and biologic hazards that may be encountered at a hazardous waste site. Careful selection and use of appropriate engineering controls, work practices, and PPE should protect any employee from health and other hazards, including hazards to the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

Congress required in section 126(b) (4) and (5) of SARA that the proposal have provisions for the use of engineering controls and personal protective equipment. Section 126(b)(6) states that the proposal shall contain "requirements for maximum exposure limitations for workers engaged in hazardous waste operations." In addition existing OSHA regulations which apply in general to hazardous waste operations, in 29 CFR Part 1910, Subpart Z, require exposures to various toxic and hazardous substances to be controlled with engineering controls if feasible, otherwise with PPE.

Paragraph (g)(1) would carry over the existing requirements of the interim rule. It provides that toxic and hazardous substances regulated by OSHA are to be controlled to the permissible exposure limit with engineering controls if feasible. If such control is not feasible, the exposure is to be controlled with PPE.

Paragraph (g)(2) would provide that to achieve as appropriate established exposures levels for substances not regulated by OSHA in Subpart Z, the employer may use an appropriate combination of engineering controls, work practices, and PPE.

OSHA believes that the approach in paragraph (g)(2) accurately reflects Congress' guidance. OSHA requests comment on whether the approach it has followed is appropriate for hazardous waste operations and is protective of workers, taking into account that in some circumstances engineering controls are not available for those operations, and also the large number of chemicals which may be present at such sites.

OSHA is currently considering upgrading its respirator program requirements and is reviewing its current methods of compliance policy to determine if revision would be appropriate. A proposed rule on methods of compliance is scheduled for later in 1987. If as a result of this review the general policy is modified, these modifications would also apply to this standard.

Examples of engineering controls which may be feasible are pressurized cabs on materials handling equipment, or pressurized control rooms in materials handling areas. However, in many cases personal protective equipment will be the only feasible means for providing protection to employees engaged in hazardous waste operations.

It is proposed that the selection of personal protective equipment (PPE) be based on the information obtained during the site characterization and analysis, as is proposed by paragraph (g)(3)(i) of this standard. Once an estimate of the types of hazards and their potential concentration has been obtained, the proper respirators and protective clothing can be selected based on the performance characteristics of the PPE relative to the site hazards and work conditions, as is proposed by paragraph (g)(3)(ii) of the standard. These requirements are derived from Reference 6, and are also supported by a NIOSH document, "Personal Protective Equipment for Hazardous Materials Incidents: A Selection Guide." These two documents also support the proposals of paragraphs (g)(3)(iii) and (g)(3)(iv) which would require positive pressure respirators with escape provisions to be used in IDLH atmospheres, and totally-encapsulating chemical protective suits to be used where skin absorption of the substance would result in an IDLH situation.

Paragraph (g)(3)(v) would require that the level of protection provided by PPE selection be increased when additional information onsite conditions show that increased protection is necessary. The purpose of this regulation is to assure that employees do not become exposed to levels of hazardous substances above what is permitted after initial monitoring has been completed. It is possible that increased protection may become necessary due to unexpected releases of unknown substances or due to new

information developed about the substances being cleaned up.

Paragraph (g)(3)(vi) would require that PPE be chosen to keep exposures at or below established permissible exposure limits. This is a restatement of paragraph (g)(3)(vi) of the interim rule.

Proper respirator selection, as proposed by this standard, involves providing a sufficient protection factor through the type of respirator used, respirator fitting, worksite conditions, and a respirator selection and use program. Proper protective clothing selection, as proposed by this standard, involves choosing protective clothing made of materials and construction which will prevent breakthrough of hazardous substances by permeation and penetration, or will reduce the level of exposure to a safe level during the employee's duration of contact. Information on the performance characteristics of PPE is available from MSHA/NIOSH certifications, test reports and manufacturer's literature. OSHA is proposing an Appendix B that would provide non-mandatory guidelines on classifying substance hazards at four levels (A, B, C, and D), and on matching four levels of appropriate protection provided by different protective ensembles. These guidelines may be used as a basis for protective clothing selection, and the selection further refined when more information is obtained, as proposed in paragraph (g)(3)(v) of the standard. (In certain circumstances, this standard would specify the appropriate level of protection. See paragraph (c)(4)(iii).) Paragraph (g)(3)(vi) would cross-reference the existing requirements to select and use PPE pursuant to the requirements of 29 CFR 1910, Subpart I.

In paragraph (g)(4), OSHA proposes to require totally-encapsulating suit materials used for Level A protection (the highest level of protection) to provide protection from the specific hazards which have been identified as requiring that level of protection. The purpose of this proposal is to be certain that the suit selected is comprised of materials which will provide the necessary protection, since no one material will provide protection from all hazards. Paragraphs (g)(4)(ii) and (g)(4)(iii) would require totally-encapsulating suits to be capable of maintaining positive air pressure to help prevent inward leakage of hazardous substances, and to be capable of preventing inward gas leakage of more than 0.5 percent. These proposals, which are based on testing of totally-encapsulating suits, are included to establish a minimum level of suit performance so that their level of protection can be quantified for proper selection. OSHA is proposing in Appendix A to list the example test methods for totally-encapsulating chemical protective suits. OSHA believes that a higher degree of leak protection than 0.5 percent may be appropriate if both practical suits and test methods exist to achieve and demonstrate greater levels of protection. OSHA also believes that a qualitative test method utilizing a non-hazardous challenge agent or a quantitative test method for the suits would be preferable. It requests comments on these issues.

In paragraph (g)(5), OSHA would require a PPE program to be established as part of the site safety and health plan. This proposal is based upon reference 6, 29 CFR 1926.28, EPA manual items 4 and 7(g), and is included since PPE will be the only protection feasible for employee protection, in most cases, and because the amount of protection afforded by PPE is dependent upon so many factors, such as selection, fit, work duration and conditions, and decontamination. The PPE program would be required to insure that the level of protection afforded by PPE is sufficient and continues to be sufficient for employee safety during hazardous waste operations.

Paragraph (h)—Monitoring

It is essential that employers be provided with accurate information on employee exposures in order to implement the correct PPE, engineering controls, and work practices. Airborne contaminants can present a significant threat to employee safety and health. Thus, identification and quantification of these contaminants through air monitoring is an essential component of a safety and health program at a hazardous waste site. Reliable measurements of airborne contaminants are useful for selecting personal protective equipment, determining whether engineering controls can achieve permissible exposure limits and which controls to use, delineating areas where protection is needed, assessing the potential health effects of exposure, and determining the need for specific medical monitoring. Section 126(b) of SARA also mandates the inclusion of the necessary monitoring and assessment procedures in this proposed rule.

In paragraph (h)(1), OSHA proposes to require that air monitoring be used to identify and quantify airborne levels of hazardous substances. This language has been taken from the interim final rule.

In paragraph (h)(2), OSHA is proposing to require monitoring for airborne hazardous substances at uncontrolled hazardous waste sites. The purpose is to detect IDLH conditions, flammable conditions, or exposures to hazardous substances. Over exposure limits can be detected and controls can be instituted or suitable PPE selected and worn to protect employees from the hazard. Representative initial monitoring would be required for these conditions. Subsequent monitoring would be required whenever the possibility of an IDLH or flammable atmosphere has developed.

In paragraph (h)(3), OSHA proposes that additional remonitoring is necessary when, as a result of various changes, increased exposures are suspected. No specific interval of monitoring is proposed because of the variations present at each individual work station. Monitoring would not be required just because a condition changes; it would be necessary only when the change may lead to higher exposures.

In paragraph (h)(4), OSHA proposes to continue requiring personal monitoring of high-risk employees as is contained in paragraph (h)(4) of the interim final rule. The language of the proposal differs from that of the interim rule, however, the requirement remains the same. A note has also been proposed to clarify the intent of the proposed requirement. The language of this paragraph was adapted from reference 6.

Because of the large number of substances which may be present at a hazardous waste site, OSHA does not believe it is possible to specify a detailed monitoring protocol as it has done in substance specific standards. OSHA requests comment on whether alternate monitoring provisions would be more appropriate.

Paragraph (i)—Informational Programs

Congress provided in § 126(b)(7) of SARA that the proposal include an "Informational Program" to "inform workers engaged in hazardous waste operations of the nature and degree of toxic exposure likely as a result of such hazardous waste operation." Paragraph (i) in the proposal is designed to carry out this Congressional directive.

Paragraph (i) provides that employees, contractors, and subcontractors (or their representatives) be informed of the hazardous substances health hazards and other hazards to which they are exposed.

Employees covered by this proposal will normally be informed as part of their initial and refresher training

required by paragraph (e). Some of the training time required in paragraph (e) can be allocated to this information so that this provision does not increase training time over that which Congress has directed.

This provision is intended to cover employees who are exposed to greater hazards than the general employee population. Consequently a clerk in an office on the periphery of a site who does not enter the operations part of a site, and is exposed only to background levels of hazardous substance, would not be covered. Employees who regularly enter the operations areas on the site and are exposed to levels significantly over background would be covered.

The information program should concentrate on those substances which will create the greater risk to the employee, either because of their hazardousness or because of the likely higher degree of exposure, and for which precautions are most essential. For example, a level of exposure not higher than background to a general population would not normally require notification. Similarly a level of exposure above background, but well below established permissible exposure limits of chemicals, would not require the specific notification of this provision.

The identification of exposure level provisions are tied in with the monitoring provision of the standard, and do not create requirements to monitor additional to those created elsewhere in this proposed standard. Similarly there is no requirement to make risk estimates or to undertake original research on the degree of risks. The requirement is to inform the employee, contractor, or subcontractor of estimates in the literature or made by authoritative organizations. As the employers here are in the business of handling hazardous wastes, they should be familiar with this literature in order to manage their operations properly. Therefore extensive literature searches should not be necessary.

OSHA requests comments on whether these or other provisions of the proposal are a more effective method than the method used in the interim final rule for informing employees of the hazards they face in a manner that concentrates on the more important hazards and the methods by which they can be controlled.

Paragraph (j)—Handling Drums and Containers

In paragraph (j), OSHA is proposing procedures for the handling of drums and containers. The handling of drums and containers at hazardous waste sites poses one of the greatest dangers to hazardous waste site employees. Hazards include detonations, fires, explosions, vapor generation, and physical injury resulting from moving heavy containers by hand and working around stacked drums, heavy equipment, and deteriorated drums. While these hazards are always present, proper work practices can minimize the risks to site personnel. Section 126(b)(8) of SARA directs that the proposal contain provisions on the handling and storage of hazardous substances and this paragraph addresses that concern.

Containers (less than 30 gallons) are also handled during characterization, removal of their contents and during other operations. Many of the hazards encountered during the handling of drums also occur during the handling of smaller containers. The relative size of a smaller container when compared to the size of a drum is no indication of the degree of hazard posed by the container. They both should be treated in accordance with the level of hazard posed by their contents not by their size. The language used in this paragraph was adapted from Reference 6.

Paragraph (k)—Decontamination

Section 126(b)(10) of SARA provides that the OSHA proposal contain requirements for decontamination procedures. Decontamination is a necessary practice to protect those employees properly who may be exposed to hazardous substances. Decontamination provisions protect an employee from being exposed to hazardous substances which might otherwise be on the employee's PPE when it is removed. OSHA is proposing that a decontamination plan be developed and implemented before any employees or equipment may enter areas on site where potential exists for exposure to hazardous substances.

As proposed in this standard, decontamination procedures and areas must be developed to minimize hazardous exposures to employees whose equipment and PPE are being decontaminated, as well as to employees who are assisting in the decontamination of workers and equipment. These measures are proposed since without proper procedures and decontamination areas, employees may be unknowingly exposed to hazardous substances which have contacted or otherwise adhered to equipment and clothing. OSHA is also proposing that all employees be decontaminated and that all clothing, equipment and decontamination fluids and equipment be decontaminated or disposed of before leaving a contaminated area. These provisions are proposed so that contaminated persons and materials do not leave the "hot zone" and thereby expose other employees and persons to hazardous substances.

Decontamination methods and cleaning fluids must be matched to the particular hazardous substance at the site in order for the decontamination procedures to be effective in removing the hazards from PPE and other equipment. No one decontamination fluid will be effective for all hazardous substances. As proposed in this standard, the decontamination program must be effective and it must be monitored by the site safety and health supervisor to maintain its effectiveness. These proposals are made so that employees are not exposed to hazardous substances by re-using PPE and other equipment which are still contaminated.

Effective employee decontamination also requires clean change rooms and showers. There must be an area where the employees can remove the contaminated work clothing and where it will not contaminate the employees' street clothing. In addition, the employees must be able to shower after removing contaminated work clothing and then go into a clean area where the employee can put on street clothing. Paragraph (k) contains these decontamination requirements. Somewhat different provisions are required for sites of less than six-month duration because more permanent facilities are not as feasible for short-term operations. The language used in this paragraph was adapted from reference 6.

Paragraph (l)—Emergency Response

Section 126(b)(11) of SARA specifically provides that the proposal contain "requirements for emergency response." In addition, the EPA manual under items 4 and 9, and 29 CFR 1926.23 and 1926.24 require preparations and planning for emergencies. Congress made its intent clear that emergency planning and response is an important part of any employer's safety and health program, and directed that it is to be addressed in the proposed rule.

The Congressional concerns on toxic emergencies is discussed in *Task Force on Toxic Emergencies*, Environmental and Energy Study Conference Special Report, September 18, 1986. This report stresses the need for training of emergency response personnel as well as emergency response planning and related areas.

In paragraph (l)(1)(i), *Emergency Response, General*, OSHA is proposing

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that employers who are involved in emergency response to hazardous waste incidents develop and implement an emergency response plan for emergencies. Employers would have to inform all their employees about the emergency response plan. The plan would also have to be available for use prior to the start of work on the site. It would have to be in writing and available for inspection by employees, their representatives, and OSHA personnel. OSHA proposes to exempt employers from the rest of paragraph (l) if they provide an emergency action plan in accordance with 29 CFR 1910.38 that requires the total and immediate evacuation of employees from the release site.

In paragraph (l)(1)(ii), OSHA is proposing that the emergency response plan include the following elements: (1) Recognition of emergencies; (2) methods or procedures for alerting employees onsite; (3) evacuation procedures and routes to places of refuge or safe distances away from the danger area; (4) means and methods for emergency medical treatment and first aid; (5) line of authority for employees; (6) decontamination procedures; and (7) site control means and methods for evaluating the plan.

Local fire departments, police departments or emergency medical services would also be required to have an emergency response plan. These employees which may be called upon to respond to hazardous substance emergency incidents involving a railroad tank car, motor carrier tank truck or to a plant location where they do not regularly work are considered involved in emergency response activities at other than hazardous waste clean-up sites under this section. However, work by maintenance or repair personnel who are called upon to replace a leaking valve or a section of pipe damaged by an unexpected release, or to restore a highway surface or railroad track bed that may have been damaged in an accident causing the release of a hazardous substance, are not considered as being part of the "emergency response" for the purpose of this proposal. Such employees routinely respond to accident sites to restore equipment to a functional level after an accident has occurred. Typically the accident scene will have been declared "non-hazardous" in regards to employee exposure to hazardous substances. Should a health exposure exist, these employees would be covered by OSHA's General Industry health standards in Subpart Z. Safety hazards related to their work would be covered by the appropriate Part of Title 29 related to their work (i.e., 1910, 1926, etc.)

The emergency response plan would have to include the incident command system required in paragraph (l)(3) of this section. OSHA believes that a generic emergency response plan is feasible for employers.

In paragraph (l)(3), *Emergency response at hazardous waste clean-up sites,* OSHA is proposing requirements for emergency response at hazardous waste clean-up sites. The title for this paragraph would be changed from the title *"On-site emergency response"* as used in the interim rule to *"Emergency response at hazardous waste clean-up sites"* to clarify the intent of the type of response OSHA is proposing to cover in this paragraph. Further the term "on-site" would be replaced with the phrase "at hazardous waste clean-up site" as appropriate.

An employer's emergency response personnel at hazardous waste clean-up site operations must have the same basic training as for the other employees involved in routine hazardous waste clean-up operations plus the training needed to develop and retain the necessary skills for anticipated emergency response activities. CERCLA sites, major corrective actions at RCRA sites, sites designated for clean-up by state and local governments and other similar hazardous waste clean-up sites require more training because there is the possibility of uncontrolled hazards.

Note.—Emergency response personnel from other places of employment of different employers who respond to the site must comply with the training requirements of paragraph (l)(3).

In paragraph (l)(3), *Emergency response at other than hazardous waste clean-up sites,* OSHA is proposing requirements for emergency response at other than hazardous waste clean-up sites. The title for this paragraph would be changed from the title *"Off-site emergency response"* as used in the interim rule to *"Emergency response at other than hazardous waste clean-up sites"* to clarify the intent of the type of response OSHA is proposing to cover in this paragraph. Further the term "off-site" would be replaced with the phrase "at other than hazardous waste clean-up site" as appropriate.

Fire departments, emergency medical and first-aid squads, fire brigades, and other similar emergency response teams would have to conduct monthly training sessions for their employees, except as provided in (l)(3)(i)(A)(*3*) and (l)(3)(i)(A)(*4*). Regular training is needed so that the employees with responsibility for controlling, containing and extinguishing fires of hazardous substances know the proper techniques and equipment to use. They must also know the appropriate PPE to use and how to wear it and how to coordinate with fellow employees. Without this knowledge their lives would be in jeopardy. The training needs to be recurring because quick decisions will have to be made in the dangerous emergencies of chemical fires, acid spills, poisonous fumes, etc. where there often will not be time to consult manuals and the information needs to be fresh and accurate in the employees' minds.

Some changes have been made in the proposal from the interim rule. The interim rule required 24 hours of training and monthly sessions. OSHA believes that is a reasonable amount of training required and it is retained as an option in the proposal.

However, a prescription of a number of hours does not necessarily indicate proficiency and employees could develop proficiency in fewer hours. Therefore, OSHA is proposing an alternative. The alternative would provide that employees be trained sufficiently so that they demonstrate competency in the relevant areas of their duties.

In addition, the interim rule clarifies that training need be given only to those employees who will be engaged in controlling toxic chemical fires and containing spills. Employees who may be first on the scene, but not expected to engage in response activities, may be trained only in hazard recognition if they are instructed to call others to control hazardous substance spills and fires. Employees for whom there is no reasonable possibility of making an emergency response need not be trained in making such a response.

In addition, the proposal clarifies that the intent of the training requirements is to ensure that fully-trained personnel are available to respond to hazardous substance emergencies. Accordingly, each individual emergency response organization is not required to have a fully-trained hazardous substance response team if arrangements have been made in advance to ensure that such a team is available to respond in a reasonable period if summoned. If any emergency response organization chooses to rely on an outside team for hazardous substance emergencies, then its members must be sufficiently trained to recognize that an emergency situation exists which requires the intervention of the designated hazardous spill response team and to know how the spill response team should be contacted. An

example may be a metropolitan area in which an emergency spill team is available to respond immediately to spills anywhere within the area. In such a case, each emergency response organization in the area would not have to train individual member to the degree specified in paragraph (l)(3)(i)(A)(*1*) if the members knew when and how to call in the designated spill response team.

However, the employees fully trained must be sufficient to handle reasonable possible emergency response situations. There are additional requirements for HAZMAT teams because they face the greater hazards of stopping leaks of hazardous chemicals.

It is noted that OSHA does not have direct jurisdiction over state and local government employees. OSHA state plan states must regulate state and local government employees in the state. State and local government employees in non-OSHA state plan states will be covered by EPA. [See section 126(f) of SARA.]

Training sessions on activities such as breathing apparatus use, hose handling and preplanning may be used as training subjects for the monthly sessions, provided hazardous substance incident operations are included in the presentation, discussion or drill. It is proposed that these training sessions and drills contain at least 24 hours of training on an annual basis.

It is also proposed that an incident command system be established by employers for the incidents that will be under their control, and that the system be interfaced with the other organizations or agencies who may respond to such an incident. The National Transportation Safety Board, as a result of its investigation of hazardous materials incidents, has consistently recommended that better state and local emergency response planning be done to reduce the loss of life and property, and that a system using a command post and on-scene commander be implemented. (See *Special Investigation Report. On-scene Coordination Among Agencies at Hazardous Materials Accidents,* NTSB-HZM-79-3, September 13, 1979; and *Multiple Vehicle Collisions and Fire, Caldecott Tunnel near Oakland, California,* NTSB/HAR-83/01, National Transportation Safety Board, Washington, DC, April 7, 1982, for further information.) OSHA is proposing that where available, state and local district emergency response plans would be utilized in developing the incident command system and the emergency response plan to assure compatability with the other emergency responding agencies or employers.

In paragraph (l)(4), *Hazardous materials teams,* OSHA is proposing to require employers, who utilize specially trained teams involved in intimate contact with controlling or handling hazardous substances, to provide special training for the affected employees in such areas as care and use of chemical protective clothing, techniques and procedures for stopping or controlling leaking containers, and decontamination of clothing and equipment after hazardous substance incidents. The employer would have to implement a medical surveillance program in accordance with the proposed requirements of paragraph (f) of this section. It should be noted that employees of employers covered by paragraph (a)(2)(ii) already would receive these protections as a result of other provisions in this proposal. However, this paragraph does not require any employer to form or organize a hazardous materials team. It only applies when such a team has been organized and utilized.

In paragraph (l)(5)(i), OSHA is proposing to require that employers who will be involved in cleaning up hazardous waste after the emergency response activities are concluded, comply with the same requirements that apply to others involved with hazardous waste clean-up operations. These hazardous waste clean-up operations will be typically accomplished by special contractors, and not by those agencies involved in responding to the initial emergency incident.

However, this paragraph does not apply to those employees who clean-up a spill in their work area which did not involve an emergency response by the fire brigade, fire department or similar organization.

After an emergency response incident is brought under control on plant property, and post-emergency clean-up of hazardous materials begins, paragraph (l)(5)(ii) would permit the employer whose facility was affected by the incident to use plant employees to decontaminate the workplace. This provision has been addressed and permitted in the past by specific OSHA health standards such as 29 CFR 1910.1017(h)(2)(i), 29 CFR 1910.1008(d)(2) and others. The employees who may take part in the clean-up would have to have completed the full training program required in 29 CFR 1910.1200, and the respirator training required in 29 CFR 1910.134. Emergency action plans would have to be provided in accordance with § 1910.38(a). Any appropriate safety and health training required by the specific tasks to be completed as part of the clean-up effort would also have to be provided. Employers whose employees will be performing post-emergency cleaning of workplaces would be exempt from paragraph (l)(5)(i) of this section if they comply fully with paragraph (l)(5)(ii) of this section.

OSHA requests comment on whether the proposals it has made and distinctions it has drawn for emergency response are appropriate, or whether improvements can be made.

Paragraph (m)—Illumination

In paragraph (m), *Illumination,* OSHA is proposing to require certain minimum illumination levels for work areas that are occupied by employees. OSHA was mandated by SARA in section 126(e) to include illumination requirements in the interim final rule published in December 1986. OSHA believes that the intent of Congress is to provide coverage concerning illumination, and has therefore proposed to regulate it in this proposed final standard. The provisions come from OSHA's construction industry requirements for illumination at construction sites issued at 29 CFR 1926.56. SARA calls upon OSHA to use the requires of Subpart C in Part 1926. Subpart C references the requirements of Subpart D which contains § 1926.56. OSHA request comment on whether these or other provisions are more appropriate for hazardous waste operations.

Paragraph (n)—Sanitation for Temporary Worksites

In paragraph (n), *Sanitation for temporary worksites,* OSHA is proposing minimum requirements for potable and non-potable water supplies, toilet facilities, and other areas related to sanitation at temporary workplaces. OSHA was mandated by SARA in section 126(e) to include sanitation requirements in the interim final rule. The provisions in this proposed standard come from OSHA's construction industry requirements for sanitation at construction sites issued at 29 CFR 1926.51 with one addition. SARA calls upon OSHA to use the requirements of Subpart C in Part 1926. Subpart C references the requirements of Subpart D which contains § 1926.51. OSHA is proposing to expand the referenced construction standard in this rulemaking with requirements for showers and change rooms. Regulation of these facilities was not a part of the interim final rule. The proposed addition has been made to address the installation and operation of employee

showers and change rooms at worksites where clean-up operations are expected to take six months or more to complete.

OSHA requests comment on whether these or other provisions are more appropriate for hazardous waste operations.

Paragraph (o)—Operations Conducted Under the Resource Conservation and Recovery Act of 1976 (RCRA)

OSHA is proposing a separate paragraph for operations conducted at worksites involving hazardous waste storage, disposal and treatment operating under the Resource Conservation and Recovery Act of 1976 (RCRA). This separate paragraph of requirements is appropriate because RCRA site operations (not including major corrective actions and their associated hazards which are similar to CERCLA sites, and are covered by the main part of the standard) generally are different from the operations and hazards found on a CERCLA clean-up site. For example, RCRA sites that would be covered by this paragraph tend for the most part to be fixed on-going operations involving the receiving, processing, storage, treatment, and disposal of hazardous wastes or substance from outside sources. CERCLA sites, on the other hand, are temporary emergency clean-up operations involving often undefined and substantial quantities of hazardous substances.

Consequently hazards should be better controlled and more routine and stable for the RCRA sites covered by this paragraph, and therefore less extensive requirements are appropriate. OSHA requests comment on whether the provisions of paragraph (o) are appropriate for general RCRA sites.

In paragraph (p), *New technology programs*, OSHA proposes to address new technology programs. New technology programs are intended to provide employees with means to become aware of new equipment, processes, and procedures that may contribute to improving their safety and health on the job. Paragraph (b)(9) of SARA also requires the agency to address new technology programs as part of this proposal.

III. References

1. Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499.

2. Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or "Superfund"), Pub. L. 96-510, December 11, 1980, 94 Stat. 2767.

3. Resource Conservation and Recovery Act of 1976 (RCRA), Pub. L. 94-580, October 21, 1976, 90 Stat. 2795.

4. "Health and Safety Requirements for Employees Engaged in Field Activities," Environmental Protection Agency Order 1440.2, U.S. Environmental Protection Agency, July 12, 1981.

5. Subparts C and D of 29 CFR Part 1926.

6. "Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities," Occupational Safety and Health Administration, Environmental Protection Agency, U.S. Coast Guard, and National Institute for Occupational Safety and Health, DHHS (NIOSH) Publication No. 85-115, October 1985.

IV. Issues for Comment

OSHA requests comments on all issues raised by this proposal, including the issues specifically raised throughout the preamble. OSHA also requests comment on the following issues:

1. Ninety days after the promulgation of the final OSHA regulations that result from this notice of proposed rulemaking, section 126 (f) of the Superfund Amendment and Reauthorization Act of 1986 (SARA) requires the Administrator of the Environmental Protection Agency (EPA) to promulgate standards identical to those promulgated by OSHA pursuant to this rulemaking for employees of State and local governments in each state which does not have in effect an approved State plan under section 18 of the Occupational Safety and Health Act of 1970. EPA is to provide standards for the health and safety protection of employees engaged in hazardous waste operations. Does the requirement that EPA apply identical standards to employees of State and local governments engaged in hazardous waste operations raise any issues about the substance of the standards that would not be raised by their application to other workers? EPA will conduct its own rulemaking to define those employees to whom the standards will apply.

2. OSHA has defined the term "established permissible exposure limit" to cover the many hazardous substance and health hazards possibly present in hazardous waste operations. Is another definition or term more appropriate and, if so, how should it be defined? Should several terms be used for different purposes, such as site entry or guidance on use of PPE? How should OSHA determine safe levels of exposure for unknown substances or mixtures of substance?

3. In order to perform a Regulatory Impact Analysis and a Regulatory Feasibility Analysis for the final standard, OSHA requests information concerning the following general topics: The type, number, and characteristics of the contractors and other entities involved in hazardous waste operations; the number of potentially affected employees at hazardous waste operations; the available fatality, injury, and illness statistics associated with hazardous waste operations; current industry practices in hazardous waste operations; the potential costs of compliance; and the potential economic impact of the proposed standard upon the economy and upon small entities. In addition to any other information that is supplied on these issues, OSHA is particularly interested in information concerning the specific questions found in Issues 4 through 18. OSHA already has substantial information in these areas, but more information would be helpful in improving the regulation and making more detailed estimates of impacts.

4. What type of contractors and other entities are involved in hazardous waste operations? How many are there? What are their characteristics? What is the typical scale of clean-up operations? Numerous local construction contractors may be employed in clean-up activities at uncontrolled hazardous waste sites. What are the characteristics of these firms? Are they typical of construction firms (particularly excavation contractors) in general or not? Are these contractors able to specialize in work at uncontrolled hazardous waste sites?

5. For investigation and clean-up of uncontrolled hazardous waste sites, can you estimate the split between government and privately funded clean-up work? Can you describe/estimate the components of the privately funded work between (1) private actions in direct response to government enforcement efforts, (2) voluntary private actions (apparently) preceding direct enforcement actions, (3) voluntary private actions in preparation for sale of property, and (4) voluntary private actions without any encouragement from enforcement or other external factors? The government-funded work at uncontrolled hazardous waste sites may continue for a decade or more. Can you estimate the duration of work in the private sector? What are the differences, if any, between clean-up project characteristics of government sponsored activities and private clients?

6. How often do emergency spills occur at a clean-up site, and how often do they occur off the site? How many of

these emergency spills are cleaned up by private contractors? Are these private contractors the same as those contractors performing hazardous waste clean-ups on hazardous waste clean-up sites? How often are emergency spills cleaned up by state and local employees? How many fires occur that require state and local firefighters to enter a hazardous waste site?

7. Do industrial establishments with industrial fire brigades generally ask those brigades to respond to in-house hazardous material spills or releases? If not, who does respond? Are other response groups designated? What provisions do other establishments (i.e., those without brigades) make for responses to hazardous material spills or releases?

8. How may private HAZMAT teams (response groups) are there? Are many of the teams designated for responses for several emergency networks (e.g., for responding to CHEMNET emergencies, Chlorine Institute emergencies and others)? How many HAZMAT specialists, advisors or consultants, or other groups are there that may respond to incidents but who do not physically get involved in the response action?

9. How many employees are exposed to hazardous substances during clean-ups at a typical CERCLA site, at a typical RCRA site; and at an emergency spill? What are the typical hazardous substances found at a CERCLA site and at a RCRA site? What are the typical exposure levels? How many average daily hours of exposure to site hazards would a typical employee face during clean-up operations, and during final site reclamation work? At how many waste sites does the average employee work during a year? What are the training and experience levels of these employees? What is the labor turnover rate? What percentage of these employees have previously worked at CERCLA or RCRA sites?

10. The proposed standard covers employers and employees engaged in operations regulated under 40 CFR Parts 264 and 265 pursuant to RCRA. Are there other RCRA operations involving hazardous waste handling covered by other Parts in Title 40 of the Code of Federal Regulations which OSHA should include in the scope of this standard? Are there any other paragraphs of this proposal not specifically referenced in paragraph (o) for applicability to RCRA sites that should be made applicable to RCRA sites?

11. What are the current industry practices with respect to the provisions in the proposed standard? What actions would be necessary for compliance? Does the current degree of compliance depend upon the type of site? Are there any provisions that would, in some specific situations, be either technologically or economically infeasible? What would those specific situations be?

12. How much training is being provided for various types of employees? Who has provided this training? How often is training repeated? Are truck drivers who haul the hazardous substance from the site trained and, if so, to what extent and by whom? Are monthly drills or other training provided for emergency responders to spills?

13. What preparations are made for emergency situations that may arise at CERCLA or RCRA hazardous waste sites?

14. What are the typical practices concerning air monitoring? How extensive is the information concerning the specific hazardous substances at a CERCLA site and at a RCRA site?

15. Do employees receive medical exams prior to the first site assignment? Are exit exams provided? Are medical exams given annually? Are these exams given to HAZMAT team members? Which tests and analyses are included in the medical exam?

16. Is personal protective equipment used in accordance with the proposed standard? If not, why not? Is a self-contained breathing apparatus worn at all times during emergencies with hazardous substances? If not, what types of instances might not require their use?

17. What sources of fatality, illness, or injury statistics are available for hazardous waste operations? What are the causes of these fatalities and injuries? What types of site characteristics or employee actions have contributed to fatalities and injuries? Are there specific cases of acute or chronic illnesses occurring to employees performing hazardous waste operations? Would specific provisions in the proposed standard have prevented these cases? Which provisions?

18. What would be the unit costs of complying with each of the provisions for which there is current non-compliance? What would be the annual costs by provision and by site? What would be the capital costs? What would be the one-time expenditures? What would be the typical total, annual and capital costs of compliance for a contractor? What would be the typical receipts, profits, and investment of these firms? To what extent would this cost of compliance be passed onto the price of the clean-up operation? What would be the typical impact of compliance upon the price charged to clean-up of a CERCLA site, a RCRA site, and a private site? Would small entities be faced with an adverse impact that would be significantly greater than the adverse impact faced by the larger entities? If so, what particular provisions would cause this impact?

19. OSHA is proposing certain training requirements for employees who are expected to work with hazardous substances. The Agency proposes to require certification to show that training has been completed. Should it set criteria for the persons doing the training? Is the requirement of a written certification upon completion of training given to the employee sufficient to show that training has been completed? With regard to the various training requirements in the standard, should OSHA require specific training courses or curriculum? What should a training certification include? If the employer is allowed to certify that an employee has been trained, what format should this certification follow?

20. In the issue of medical surveillance and the surveillance records necessary to show employee exposures, how should OSHA provide for records transfer when an employee moves from one job site to another job site, or from one employer to another employer?

21. Test methods for evaluating the performance of totally-encapsulating chemical protective suits are included in Appendix A of this standard. A pressure test using compressed air and a qualitative leak test using vapors from concentrated aqueous ammonia are included. Are these test methods adequate for ensuring the integrity of totally-encapsulating chemical protective suits? Are other test methods available which would be more suitable? Is there a danger to employees from the use of such a volume of concentrated aqueous ammonia?

22. The standard and appendices do not contain any test methods for other chemical protective clothing such as overalls, chemical-splash suits and chemical-resistant gloves. Are there any tests methods available which evaluate the performance of these types of protective clothing and gloves as they would perform when worn? Is there a need to include test methods for chemical protective clothing and gloves?

23. The standard requires that clothing and equipment leaving a contaminated area be appropriately disposed of or decontaminated. What methods are available to evaluate the effectiveness of decontamination procedures? What methods are available to determine when decontaminated clothing and

equipment are safe to reuse? What guidelines or procedures are available to ensure proper disposal of contaminated clothing and equipment?

24. The practical health benefit of annual medical examinations for workers in hazardous waste operations may be, however, uncertain. Hazardous waste operations often involve exposure to numerous chemicals some of which may be unknown, to which workers may be exposed once, intermittently, or regularly. Consequently, it may not be possible to determine in advance what particular biological markers are relevant in determining over-exposure; which medical tests should be conducted; or even if the same medical tests should be conducted with each yearly examination. One consequence of this uncertainty may be over-testing—the application of a battery of medical tests simply in order to cover the full spectrum of possibilities. Such testing would be costly and in some circumstances of limited health benefit, and would not assure the worker that health effects have not occurred as a result of over-exposure. This situation differs from that in most other activities regulated by OSHA, in which specific exposures have been identified and specific tests can be conducted to determine if workers have been over-exposed.

Since, in some circumstances, it may not be possible to determine in advance what doctors should look for in workers engaged in hazardous waste operations, it may be more useful to follow the initial or baseline exam with periodic examinations of those workers who show symptoms indicating sensitivity or possible over-exposure to hazardous substances. Follow-up exams would occur at intervals recommended by the physician. The effectiveness of this approach in identifying workers in need of medical surveillance would be enhanced by worker training on recognition of symptoms indicating possible over-exposures. OSHA solicits comments on the appropriateness and effectiveness of this alternative to annual medical examinations.

V. Regulatory Impact Analysis, Regulatory Flexibility Analysis and Environmental Impact Assessment

Introduction. Executive Order 12291 (46 FR 13197, February 19, 1981) requires that a regulatory impact analysis be conducted for any rule having major economic consequences for the national economy, individual industries, geographical regions, or levels of government. In addition, the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164 [5 U.S.C. 601 *et seq.*]) requires the Occupational Safety and Health Administration (OSHA) to determine whether a proposed regulation will have a significant economic impact on a substantial number of small entities, and the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*) requires the agency to assess the environmental consequences of regulatory actions.

In order to comply with these requirements, OSHA has prepared a Preliminary Regulatory Impact and Regulatory Flexibility Analysis (PRIA) for the proposed hazardous waste operations and emergency response standard. This analysis includes a profile of the industries that would be affected, the estimated number of employees who would be at risk from occupational exposures to hazardous wastes, technological feasibility, costs, benefits, and an overall economic impact of the proposed standard. The PRIA is available in the OSHA Docket Office.

Data Sources. The primary sources of information for this analysis are an April 1986 report by The Eastern Research Group (ERG) entitled, "Preparation of Data to Support A Regulatory Analysis and Environmental Assessment of the Proposed Standard for Working at Hazardous Waste Sites." Most of the information contained in this report was gathered from Environmental Protection Agency sources, industry sources, experts in the area of hazardous waste management, etc. OSHA welcomes additional comments and all information supplied will be carefully reviewed and evaluated for incorporation into the Regulatory Impact Analysis (RIA) that will accompany the final rule.

Industry Profile. The proposed standard would affect about 20,000 uncontrolled hazardous waste sites, about 4,000 hazardous waste operations conducted under the Resource Conservation and Recovery Act (RCRA) of 1976, about 13,600 spills of hazardous materials that occur annually outside a fixed facility, and about 11,000 spills of hazardous materials that annually occur inside a fixed facility. The firms that would be affected by this proposed standard are as follows: about 100 contractors that perform hazardous waste cleanups; about 50 engineering or technical services firms that perform hazardous waste preliminary assessments or site investigations and remedial investigations or feasibility studies for hazardous waste site cleanups; about 300 RCRA-regulated commercial treatment, storage and disposal facilities; about 3,700 RCRA-regulated facilities that are operated by a hazardous waste generator; about 28,000 fire departments; about 750 private hazardous materials (HAZMAT) response teams; and about 22,000 manufacturers that use in-house personnel who respond to emergency spills of hazardous material within the facility.

Population at Risk. As many as 1,191,950 employees may be at risk from exposure to hazardous waste. Of these 1,191,950 employees, about 12,100 are employed at government-mandated uncontrolled hazardous waste site cleanups, about 52,700 are employed at RCRA-regulated facilities, about 944,500 are firefighters, about 7,500 are private HAZMAT members, and about 176,000 are members of industrial fire brigades that provide in-plant emergency responses to hazardous materials spills. Most of these employees, however, do not work full-time around hazardous waste. In fact, nearly all of the 1,120,500 firefighters and industrial fire brigade personnel who are at risk are annually exposed to hazardous materials for only a few hours. Virtually all of the public firefighters will be directly regulated by either individual state OSHA standards or the U.S. EPA standard.

Feasibility. The proposed standard does not require the use of any large-scale capital equipment that is not currently used in normal work operations. In addition, each proposed provision requires equipment and work practices that are currently available. Thus, OSHA has preliminarily determined that the proposed standard is technologically feasible.

Benefits. Numerous case studies indicate that exposures to hazardous waste cause adverse health consequences. Compliance with the proposed standard, therefore, would prevent employee fatalities and illnesses resulting from these acute and chronic exposures. OSHA has not quantified the expected reduction in the number of these occupational fatalities and illnesses because time was not sufficient to conduct field data collections on current and future exposures to hazardous waste. The probability that a significant number of excess fatalities and illnesses will occur in the absence of a proposed standard was clearly recognized by Congress in its mandate to OSHA to promulgate a standard within one year from the date that the Superfund Amendments and Regulations Act (SARA) became law. Compliance with the proposed standard will reduce the number of these fatalities and injuries by reducing

employee exposures to hazardous waste.

Cost of Compliance. OSHA has used current work practices as its baseline for estimating the cost of full compliance with the proposed standard. This estimated cost does not include any cost that is currently being incurred by employers as part of their work practices because those work practices, and therefore those costs, would continue whether or not the proposed standard were promulgated.

TABLE A—TOTAL ANNUAL COST OF COMPLIANCE FOR THE PROPOSED STANDARD

[Millions of 1986 dollars]

Provision	Government-mandated cleanups of uncontrolled waste sites	RCRA-regulated facilities	Fire departments	Private HAZMAT teams	Fire brigades	Total
Monitoring	2.608					2.608
Medical	1.262	13,886		1.463		16.611
Training:						
(Direct)	(3.148)	(6.929)	(24.052)	(0.317)	(19.526)	(53.982)
(Indirect)	(17.500)	(–)	(–)	(–)	(–)	(17.500)
	20.648	6.929	24.052	0.317	19.526	71.482
Decontamination	2.047		5.687	0.627	3.529	11.890
SCBA	0.225		4.250	0.228	4.979	4.682
Emergency Response Plans		0.157	3.341	0.098	1.819	5.415
Emergency Plan Rehearsal		1.320				1.320
Operating Procedures		0.426				0.426
Plan to Minimize Exposure			5.707	0.153	3.084	8.944
PPE Plan			5.376	0.055	1.840	7.271
TECP			11.200	0.155		11.355
Other	1.362		0.101	0.005		1.468
Total	28.152	22.718	59.714	3.101	34.787	148.472

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis, as derived from ERG report [1, Appendix C].

As seen in Table A, OSHA has estimated that the total annualized incremental cost of full compliance with the proposed standard would be about $148.472 million, of which $28.152 million would be spent by contractors on government-mandated uncontrolled hazardous waste site cleanups, $22.718 million would be spent by operators on RCRA-regulated facility cleanups and operations, $59.714 million would be spent by fire departments, $3.101 million would be spent by private HAZMAT teams, and $34,787 million would be spent by industrial fire brigades.

Although OSHA's proposed standard does not directly cover state and local government employees, SARA requires that the U.S. EPA adopt the standard to cover state and local government employees in non-state plan states, and the OSH Act requires that state plan states adopt a comparable standard to cover state and local government employees. Thus, virtually all of the $59.714 million cost to fire departments will be directly mandated by either the individual states or the U.S. EPA.

The provision with the largest annual cost of compliance is the employee training provision ($71.482 million), followed by the medical surveillance provision ($16.611 million), the provision requiring the decontamination of personnel and equipment ($11.890 million), and the provision governing the use of totally encapsulating chemical protective (TECP) suits ($11.355 million).

Economic Impacts. Most of the incremental cost of compliance will be paid by the government or the private firm responsible for the hazardous waste cleanup and OSHA has calculated that it is economically feasible for every affected industry or group to comply with the proposed standard. There may be an impact upon some labor markets as a consequence of the proposed provision that only sufficiently experienced employees, or employees certified to have received a week's training at an appropriate training facility, will be allowed to work on hazardous waste site. This proposed provision would effectively curtail the current practice of using local subcontractors to provide short-term employees for hazardous waste site cleanups and limit the number of employees eligible to work at hazardous waste sites. This, in turn, may increase future wage rates and the cost of hazardous waste site cleanups.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, the Assistant Secretary has preliminary assessed the expected impacts of the proposed standard on small entities. Based on the available information, OSHA has determined that the proposed standard may have some impact upon some small entities. The cost of training an employee for five days prior to working at a hazardous waste site cleanup would substantially reduce the use of subcontractor labor on a one-time basis. Thus, some local subcontractors face a potential reduction in hazardous waste site cleanup work. The majority of this subcontracted work will probably be performed by those subcontractors who concentrate upon this type of work. Subcontractors who have performed cleanup work but who do not elect to train employees needed to qualify for future work will probably be excluded from working in this market. OSHA does not have information concerning the importance of this potential loss of future business for some local subcontractors. Therefore, OSHA is soliciting information on this issue and any comments received will be carefully reviewed and evaluated for incorporation into the RIA that will accompany the final rule.

Environmental Impact Assessment—Finding of No Significant Impact

OSHA has reviewed the interim final and proposed standards for hazardous waste operations and emergency response and has concluded that no significant environmental impacts are likely to result from the promulgation of these regulations. OSHA reserves the right to perform additional environmental analyses that may be appropriate as a result of information and comments received in response to this Notice.

In OSHA's December 19, 1986, interim final rule for the protection of workers engaged in hazardous waste and emergency response operations, information was solicited from the public on various issues, including possible environmental impacts on the

regulation. To date, no comments have been received on the question of environmental impact. On the basis of the review detailed below, and in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 [42 U.S.C. 4321, *et seq.*], the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR Part 1500, *et seq.*), and the Department of Labor's implementing regulations for NEPA compliance (29 CFR Part 11), the Assistant Secretary has determined that the proposed rule will not have a significant impact on the external environment.

The preceding description of the proposed standard and its supporting rationale, together with the following discussion, constitute OSHA's environmental assessment and finding of no significant impact.

In most OSHA regulatory actions, two environments may be affected: (1) the workplace environment, and (2) the general human environment external to the workplace, including impacts on air and water pollution, solid waste, and energy and land use. The proposal for hazardous waste operations, however, is unique in that it focuses on the external environmant because during these operations, the workplace and the external environment are usually one and the same. The proposed rule is also unusual in that it is the first regulation since the passage of the Occupational Safety and Health Act of 1070 (the Act) to be mandated specifically by Congress under Section 126 of the Superfund Amendments and Reauthorization Act of 1986 (SARA). As indicated in earlier sections of this Notice, the provisions of Section 126 detail those protection that OSHA must include for workers at hazardous waste and emergency response operations. For example, Section 126 requires that provisions for site analysis, training, and medical surveillance, among other, be included in the proposed rule. In addition, there is a wide range of OSHA, EPA, and other standards that already apply to some activities that occur at hazardous waste sites and during emergency response operations. For example, there are existing OSHA standards that cover construction activities, onsite machinery and equipment, selection and use of persons protective equipment, handling of toxic and explosive materials, and general environmental and safety issues such as walking-working surfaces, noise, and illumination. Moreover, the interim final and proposed rules, in many instances, either reflect OSHA regulations, procedures adopted by other federal agencies (e.g., EPA), or practices that are commonly used by those knowledgable in hazardous waste and emergency response operations. To illustrate, Subsection (j)(6) of the proposed standard requires special controls for handling laboratory waste packs, and these controls have already become accepted practice during such operations. To the extent that existing standards, rules, or standard operating procedures are incorporated into this rule, no significant change in the environment is anticipated.

As the interim final and proposed rules largely follow current operating practices, and the technology is available to implement the OSHA provisions, compliance is not anticipated to be a difficulty. For example, section (c)(4)(iii) of the interim final rule proposes that if preliminary site evaluation cannot identify hazards or suspected hazards at the site, a Level B ensemble of personal protective equipment shall be used and direct-reading instruments shall also be carried. OSHA analysis indicates that these procedures are already accepted industry practice.

Potential Positive Environmental Effects. While OSHA does not anticipate any significant environmental effects as a result of this proposal, there is a potential for some beneficial impacts. In general, the work practices and procedures requirements of the proposal improve worker effectiveness and reduce the incidence of employee injury. Their indirect result should be to reduce the likelihood of environmental releases of hazardous materials. (Virtually all provisions of the proposed standard can be categorized in this manner, because once they are implemented, they will have a positive influence on worker safety and performance.) Because these requirements also provide guidance for routine reactions to situations encountered in emergencies, they may help to reduce the severity of such emergencies. Additional potentially positive impacts might be categorized as follows: (1) Direct benefits associated with reduced incidences in, or the severity of, the release of hazardous materials, and (2) indirect benefits associated with the improved flow of information and increased worker awareness of hazardous materials or with improved worker preparedness (either for normal site operations or for unexpected accidents). The following discussion highlights those provisions with potentially beneficial environmental effects.

Paragraph (h)—Monitoring

The requirements of this provision will increase the amount of monitoring for airborne hazardous substances at uncontrolled hazardous waste sites. In some cases, hazardous materials will be detected, and steps will be taken to more quickly control the release to the atmosphere, thereby providing an environmental benefit.

Paragraph (j)—Handling Drums and Containers

A number of specific requirements of this paragraph will result in potentially positive environmental impacts. Relevant subsections include those for inspecting drums and containers; making salvage drums or absorbents available; initiating a spill containment program; emptying unsound drums and containers; requiring ground penetrating radar; and decontamination procedures. These are discussed briefly in the following sections.

Inspection of drums/containers before moving [(j)(1)(ii)]. This section would require that drums and containers be inspected for their integrity prior to handling and moving. Under current practices at hazardous waste clean-up sites, drums and containers are often handled with mechanized equipment (e.g., a barrel grapple on a backhoe arm) before being inspected; if unsound drums rupture or leak, any soil contaminated by the rupture or leak is removed for disposal upon completion of drum handling operations. The proposed provision will, through worker awareness, increase the probability of averting ruptures and leakage. In addition, any hazardous materials in containers that cannot be moved without rupturing will have to be transferred to safe containers (as required in (j)(1)(vii)), with obvious positive environmental effect. These procedures should reduce the volume of contaminated soil requiring disposal; they should also lower the possibility that leachate or runoff will carry contaminants offsite. This requirement does not have an impact on emergency response actions because the routines outlined are already standard procedure.

Availability of salvage drums/absorbents [(j)(1)(vi)]. This provision specifies that salvage drums or containers as well as suitable amounts of proper absorbent be kept available for use in areas where spills, leaks, or ruptures might occur. This requirement will result in increased availability of salvage drums and spill absorbents at uncontrolled hazardous waste sites and

in emergency response situations where spills are imminent, thereby reducing the environmental consequences related to spills of hazardous materials. In those instances where salvage drums/absorbents would have been inadequate without this requirement, there is a potential benefit to the environment.

Implement a spill containment program [(j)(1)(vii)]. The purpose of this provision is to develop a program to be implemented, in the event of a major spill, that would contain and isolate hazardous materials being transferred into containers and drums. To the extent that this program is implemented, there is a potential for reducing the negative environmental effects that occur as a result of spills, leakage, etc. This requirement should reduce the environmental impact of potential spills at clean-up sites.

Empty unsound drums/containers [(j)(1)(viii)]: Unsound containers often rupture during handling operations. This provision requires that drums and containers that cannot be moved without spillage, leakage, or rupture be emptied into a sound container. This requirement should reduce the incidence of drum and container rupture and would provide concomitant environmental benefits.

Use of ground penetrating radar to estimate depth and location of containers [(j)(1)(ix)]. At present, when preliminary investigations at hazardous waste sites indicate that buried drums or containers may be present, ground penetrating systems are frequently used to determine the depth and location of the drums. The requirements of this provision will very likely cause an increase in the use of these systems, thereby reducing the number of instances in which buried containers would go undetected or where undetected containers would be accidently ruptured during excavation activities. Where it applies, the requirement will help prevent accidental ruptures and spills, improve the thoroughness of remedial actions, and benefit the site environment.

Develop decontamination procedures [(k)]. The requirement to clean and decontaminate equipment, personnel, and personal protective equipment will prevent the migration of hazardous substances out of the worksite, thereby benefitting the surrounding environment. It will also eliminate or minimize the contamination of personnel. Decontamination is already standard practice at most cleanup sites.

Inform Contractors of Existing Hazards [(b)(15)]. Under this provision, contractors are to be informed of any "fire, explosion, health or other safety hazards" that are present. By ensuring that contractors know the location and nature of site hazards, this requirement reduces the possibility that contractor activities will result in inadvertent releases or spills of hazardous materials.

Gather Information Before Site Entry [(c)(3)]. Among the various requirements for site evaluation are those for information to be gathered regarding the (a) pathways for hazardous substance dispersion, and (b) status and capability of emergency response teams. These procedural requirements will result in an increased ability to predict and prevent movement offsite of hazardous materials, mitigate emergency situations quickly and effectively, and reduce the possibility or severity of contaminant release. Since the requirements of this section mirror current practices, compliance should be accomplished with little difficulty.

Provide worker training [(e)]. Training is required for all workers who are, or could be, exposed to hazardous substances, health hazardous, or safety hazards. In addition, all managers or supervisors responsible for employees at hazardous waste operations must receive preparatory training. This training assures that site activities will be carried out by qualified personnel, with the knowledge and ability to fulfill their job functions in a safe and responsible manner. To the extent that this occurs, there is a potential benefit to the environment (in emergency response situations, this training should assure a more efficient and effective cleanup of hazardous materials or a quicker response to avert further hazardous material releases).

Informational programs [(i)]. These provisions include requirements for a site safety and health plan, pre-entry briefings, and site inspections. The site plan provides information on key personnel, risk analyses for each site task and operation, employee training assignments, personal protective equipment, medical surveillance, frequency and types of air monitoring, personal monitoring, and environmental sampling techniques, site control measures, decontamination procedures, standard operating procedures, emergency response contingency plans, and entry procedures for confined spaces. These requirements will not directly affect the existing environment; their purpose is to provide workers with the information necessary to carry out their activities safely. To the extent that this occurs, there is a potential benefit to the environment. For example, implementing comprehensive site plans could reduce the incidence of accidental releases of hazardous materials. Similarly, requiring pre-entry briefings will reduce the likelihood of employees unknowingly encountering contaminants or allowing their improper release or disposal.

Emergency response plan [(l)(1)]. The development and implementation of a response plan for emergencies provide for greater worker preparedness. In emergencies, workers should be able to respond more quickly and effectively, thereby benefitting the environment.

Potentially negative impacts. Finally, it is necessary to consider the potential for adverse impacts to the environment that might occur as a result of the proposed standard. In some situations, there may be a potential for negative effects on the environment. Any potential negative impacts, however, are not expected to be significant. To illustrate, negative impacts may occur if there is an increase in the time required to implement specific cleanup and spill response activities, or to implement safe work practices or procedures required by the proposal. Any such effects are likely to be negligible, however. For example, CERCLA sites where site plans have not been developed there could be a potential negative impact as result of the time it might take to develop such a plan. In these cases, however, since site cleanup activities are carried out on a specific EPA timetable, it is not anticipated that OSHA requirements will alter these time frames. In fact, OSHA's intent was expressed clearly in the preamble to the interim final rule: ". . . It is not OSHA's intention that emergency actions necessary to protect the public safety and health be prevented because in a particular circumstance it is not feasible to carry out particular requirements of this standard in the time needed to respond to the emergency." In emergency response situations, therefore, OSHA work practices and procedures should not cause significant delays in response or slow the mitigation of environmental effects because, in most cases, response teams already have established operating procedures similar to those in OSHA's proposed rule.

Another potential negative impact may result from the requirement that salvage drums and absorbents be readily available. This may increase the number of repacked hazardous waste drums and the amount of spent absorbent used, which could add to the amount of material that would require safe disposal. Similarly, the requirement for implementation of proper decontamination procedures for all equipment, personal protective gear, and personnel at hazardous waste

emergencies, cleanup sites, and RCRA sites may result in an increase in the frequency and use of decontamination materials. This, in turn, could generate a larger volume of spent decontamination fluids which would then require proper handling and disposal. Again, any such impact should be negligible since decontamination is largely standard procedure for most hazardous waste operations. A possible exception may be during activities that take place in the early stages of site evaluation before cleanup, or at spill responses, where decontamination procedures are not yet standardized.

Conclusion. To the extent that the proposed work practices and procedures are implemented, increased worker awareness and preparedness will result in a safer and more healthful work environment, which may indirectly benefit the environment. Any negative impacts that may occur as a result of the implementation of these work practices or procedures are expected to be negligible. Based upon this assessment and the information presented earlier in the preamble, OSHA concludes that no significant environmental changes are anticipated as a result of the proposal. OSHA will review any comments or information received in response to this Notice and reserves the right to perform additional environmental analysis, if necessary.

VI. International Trade

OSHA has evaluated the potential impact that this proposed standard would have upon international trade. OSHA has determined that the proposed standard would have a minimal potential impact upon the prices of products, so that there would be no effective change in the level of exported or imported products.

VII. Recordkeeping

The proposed standard contains "collection of information" (recordkeeping) requirements pertaining to preparation of a written safety and health plan, site characterization and analysis, site control, training, medical surveillance, emergency controls, work practices, PPE, monitoring, informational programs, handling drums and containers, decontamination, emergency response planning, and emergency response drills. In accordance with 5 CFR Part 1320 (Controlling Paperwork Burdens on the Public), OSHA has submitted the proposed recordkeeping requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments regarding the proposed recordkeeping requirements may be directed to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer of the Occupational Safety and Health Administration, Washington, DC 20503.

VIII. State Plan States

This **Federal Register** document proposes to amend an interim final rule § 1910.120, "Hazardous Waste Operations and Emergency Response") in Subpart H of 29 CFR Part 1910, OSHA's general industry standards on hazardous materials. The 25 States with their own OSHA approved occupational safety and health plans must develop a comparable standard applicable to both the private and public (State and local government employees) sectors within six months of the publication date of a permanent final rule 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 new Federal standard. These states are Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for state and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. After the effective date of a final Federal rule, until such time as a state standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these states.

IX. Public Participation—Public Hearings

Interested persons are invited to submit written data, views, and arguments with respect to OSHA's proposed rule. These comments must be postmarked on or before October 5, 1987 and submitted in quadruplicate to the Docket Officer, Docket S-760A, Room N-3670, U.S. Department of Labor, Washington, DC 20210. Written submissions must clearly identify the specific provisions of the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of this proceeding. The preliminary regulatory impact assessment, regulatory flexibility assessment, and the exhibits cited in this document will be available for public inspection and copying at the above address. OSHA invites comment concerning the conclusions reached in the economic impact assessment.

OSHA recognizes that there may be interested persons who, through their knowledge of safety or their experience in the operations involved, would wish to endorse or support certain provisions of the standard. OSHA welcomes such supportive comments, including any pertinent accident data or cost information which may be available, in order that the record of this rulemaking will present a balanced picture of the public response on the issues involved.

Notice of Intention to Appear at the Informal Hearings

Pursuant to section 6(b)(3) of the OSHA Act, informal public hearings will be held on this proposal as follows (see the beginning of this notice for specific addresses):

October 13–16 and 20–23, 1987; Washington, DC
October 27–30, 1987; San Francisco, CA

Persons desiring to participate at the informal public hearing must file a notice of intention to appear by September 21, 1987. The notice of intention to appear must contain the following information:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The city where the person intends to appear;
4. The approximate amount of time required for the presentation;
5. The specific issues that will be addressed;
6. A detailed statement of the position that will be taken with respect to each issue addressed; and
7. Whether the party intends to submit documentary evidence and, if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than ten (10) minutes for presentation at the informal public hearing, or who will submit documentary evidence, must provide in quadruplicate, the complete text of testimony including all documentary evidence to be presented at the informal public hearing. These materials must be provided to Mr. Thomas Hall, OSHA Division of Consumer Affairs at the address given in the "**ADDRESSES**" section of this notice by October 5, 1987.

Each submission will be reviewed in light of the amount of time request in the Notice of Intention to Appear. In instances where the information contained in the submission does not

justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact prior to the informal public hearings.

Any party who has not substantially complied with the above requirement may be limited to a ten-minute presentation and may be requested to return for questioning at a later time.

Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge, but will not be allowed to question witnesses.

Notices of intention to appear, testimony and evidence will be available for inspection and copying at the Docket Office, Docket S-760A, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3670, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 523-7894.

Conduct of Hearings

The informal public hearings will commence at 9:30 a.m. at the scheduled locations with the resolution of any procedural matters relating to the proceeding. The informal public hearing will be presided over by an Administrative Law Judge who will have the power necessary and appropriate to conduct a full and fair informal public hearing as provided in 29 CFR Part 1911, include the power to:

1. Regulate the course of the proceedings;
2. To dispose of procedural requests, objections and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the informal public hearing by appropriate means;
5. In the Judge's discretion, to question and permit questioning of any witness; and
6. In the Judge's discretion, to keep the record open for a reasonable time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the informal public hearing, the presiding Administrative Law Judge will certify the record of the informal public hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The notice of proposed rulemaking will be reviewed in light of all testimony and written submissions received as part of the record, and the proposed standard will be modified or a determination will be made not to modify the proposed standard based on the entire record of the proceeding.

List of Subjects in 29 CFR Part 1910

Containers, Drums, Emergency response, Flammable and combustible liquids, Hazardous materials, Hazardous substances, Hazardous wastes, Incorporation by reference, Materials handling and storage, Personal protective equipment, Storage areas, Training, Waste disposal.

Authority

This document has been 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. Pursuant to section 126 of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499), sections 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), section 4 of the Administrative Procedures Act (5 U.S.C. 553), 29 CFR Part 1911 and Secretary of Labor's Order 9-83 (48 FR 35736), it is proposed to amend 29 CFR Part 1910 by revising § 1910.120, Hazardous Waste Operations, as set forth below.

Signed at Washington, DC this 5th day of August 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

For the reasons set out in the preamble, Title 29, Part 1910, of the Code of Federal Regulations is amended as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The authority citation for Subpart H of Part 1910 is proposed to be amended by adding the following citation:

Authority:

* * * * *

Section 1910.120 issued under the authority of Section 126 of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499), Sections 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), sections 3 and 4 of the Administrative Procedure Act (5 U.S.C. 552(a), 553), 29 CFR Part 1911 and Secretary of Labor's Order 9-83 (48 FR 35736).

2. Section 1910.120 of Title 29 of the Code of Federal Regulations is proposed to be revised to read as follows:

§ 1910.120 Hazardous waste operations and emergency response.

(a) *Scope, application, and definitions*—(1) *Scope for operations other than emergency response.* This section covers employers and employees engaged in the following operations:

(i) Operations involving hazardous substances that are conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 U.S.C. 9601 *et seq.*) (CERCLA), including initial investigations at CERCLA sites before the presence or absence of hazardous substances has been ascertained;

(ii) Clean-up operations involving major corrective actions conducted under the Resource Conservation and Recovery Act of 1976 as amended (42 U.S.C. 6901 *et seq.*) (RCRA);

(iii) Operations at hazardous waste sites that have been designated for clean-up by state or local governmental authorities; and

(iv) Storage, treatment, and disposal facilities involving hazardous wastes regulated under 40 CFR Parts 264 and 265 pursuant to RCRA; and

(2) *Scope for emergency response operations.* This section also covers employers whose employees have a reasonable possibility of engaging in emergency response operations for releases of, or substantial threats of releases of, hazardous substances without regard to the location of the hazard.

(3) *Application.* (i) All requirements of Part 1910 and Part 1926 of Title 29 of the Code of Federal Regulations apply pursuant to their terms to hazardous waste operations whether covered by this section or not. In addition, the provisions of this section apply to operations covered by this section. If there is a conflict or overlap, the provision more protective of employee safety and health shall apply without regard to 29 CFR 1910.5(c)(1).

(ii) All paragraphs of this section except paragraph (o) apply to operations involving hazardous substances conducted under CERCLA, major corrective actions taken in clean-up operations under RCRA, and hazardous waste operations that have been designated for clean-up by state or local governmental authorities.

(iii) Only the requirements of paragraphs (l) and (o) of this section apply to those operations involving hazardous waste treatment, storage, and disposal facilities regulated under 40 CFR Parts 264 and 265.

Exceptions: For small quantity generators and generators with less than 90 days accumulation of hazardous wastes who have emergency response teams that respond to releases of, or substantial threats of releases of, hazardous substances, only paragraph (l) is applicable. Small quantity generators and generators with less than 90 days

accumulation of hazardous wastes who do not have emergency response teams that respond to releases of, or substantial threats of releases of, hazardous substances are exempt from the regulations of this section.

(iv) Paragraph (l) of this section applies to all emergency response operations for releases of, or substantial threats of releases of, hazardous substances including those releases of or substantial threats of releases that occur at worksites other than those sites identified in paragraphs (a)(2)(i) through (a)(2)(iii) of this section.

(4) *Definitions. "Buddy system"* means a system of organizing employees into work groups in such a manner that each employee of the work group is designated to observe the activities of at least one other employee in the work group. The purpose of the buddy system is to provide rapid assistance to those other employees in the event of an emergency.

"Decontamination" means the removal of hazardous substances from employees and their equipment to the extent necessary to preclude the occurrence of foreseeable adverse health affects.

"Emergency response" means a coordinated response effort by employees from outside the immediate release area or by outside responders (i.e., mutual-aid groups, local fire departments, etc.) to an occurrence which results, or is likely to result, in an uncontrolled release of a hazardous substance. Responses to incidental releases of hazardous substances where the substance can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate release area are not considered to be emergency responses within the scope of this standard. Responses to releases of hazardous substances where the concentration of a hazardous substance is below the established permissible exposure limits established in this standard are not considered to be emergency responses.

"Established exposure levels" means the inhalation or dermal permissible exposure limit specified in 29 CFR Part 1910, Subpart Z; or if none is specified, the exposure limits in "NIOSH Recommendations for Occupational Health Standards" dated 1986 incorporated by reference, or if neither of the above is specified, the standards specified by the American Conference of Governmental Industrial Hygienists in their publication "Threshold Limit Values and Biological Exposure Indices for 1986–87" dated 1986 incorporated by reference. The two documents incorporated by reference are available for purchase from the following:

NIOSH, Publications Dissemination, Division of Standards Development and Technology Transfer, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, OH 45226, (513) 841–4287

American Conference of Governmental Industrial Hygienists, 6500 Glenway Ave., Building D–7, Cincinnati, OH, 45211–4438, (513) 661–7881

and are available for inspection and copying at the OSHA Docket Office, Docket No. S–760, Room N–3671, 200 Constitution Ave., NW., Washington, DC 20210.

"Facility" means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

"Hazardous materials (HAZMAT) team" means an organized group of employees, designated by the employer, who are knowledgeable and specifically trained and skilled to handle and control leaking containers or vessels, use and select special chemical protective clothing and perform other duties associated with accidental releases of hazardous substances. The team members perform responses to releases of hazardous substances for the purpose of control or stabilization of the release. A HAZMAT team is not a fire brigade nor is a typical fire brigade a HAZMAT team. A HAZMAT team, however, may be a separate component of a fire brigade.

"Hazardous substance" means any substance designated or listed under (A) through (D) below, exposure to which results or may result in adverse affects on the health or safety of employees:

(A) Any substance defined under section 101(14) of CERCLA;

(B) Any biological agent and other disease-causing agent as defined in section 104 (33) of CERCLA;

(C) Any substance listed by the U.S. Department of Transportation as hazardous materials under 49 CFR 172.101 and appendices; and

(D) Hazardous waste.

"Hazardous waste" means (A) a waste or combination of wastes as defined in 40 CFR 261.3, or (B) those substances defined in 49 CFR 171.8.

"Hazardous waste operation" means any operation conducted within the scope of this standard involving employee exposure to hazardous wastes, hazardous substances, or any combination of hazardous wastes and hazardous substances.

"Hazardous waste site" or "site" means any facility or location within the scope of this standard at which hazardous waste operations take place.

"Health hazard" means a chemical, mixture of chemicals or a pathogen for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Further definition of the terms used above can be found in Appendix A to 29 CFR 1910.1200.

"IDLH" or "Immediately dangerous to life or health" means an atmospheric concentration of any toxic, corrosive or asphyxiant substance that poses an immediate threat to life or would cause irreversible or delayed adverse health effects or would interfere with an individual's ability to escape from a dangerous atmosphere.

"Oxygen deficiency" means that concentration of oxygen by volume below which air supplying respiratory protection must be provided. It exists in atmospheres where the percentage of oxygen by volume is less than 19.5 percent oxygen.

"Permissible exposure limit" means the inhalation or dermal permissible exposure limit specified in 29 CFR Part 1910, Subpart Z.

"Post emergency response" means that portion of an emergency response performed after the immediate threat of a release has been stabilized or eliminated and clean-up of the site has begun. If post emergency response is performed by an employer's own employees as a continuation of initial emergency response, it is considered to be part of the initial response and not post emergency response.

"Qualified person" means a person with specific training, knowledge and experience in the area for which the person has responsibility.

"Site safety and health supervisor (or official)" means the individual located on a hazardous waste site who is responsible to the employer and has the authority and knowledge necessary to implement the site safety and health

plan and verify compliance with applicable safety and health requirements.

"Small quantity generator" means a generator of hazardous wastes who in any calendar month generates no more than 1000 kilograms (2210 pounds) of hazardous waste in that month.

(b) *General requirements*—(1) *Safety and health program*—(i) *General.* Employers shall develop and implement a written safety and health program for their employees involved in hazardous waste operations. The program shall be designed to identify, evaluate, and control safety and health hazards and provide for emergency response for hazardous waste operations. The program shall incorporate as separate chapter the following:

(A) Organizational structure chapter;

(B) A comprehensive workplan chapter; and

(C) A site-specific safety and health plan chapter.

(ii) *Organizational structure chapter.* (A) The organizational structure chapter shall establish the specific chain of command and specify the overall responsibilities of supervisors and employees. It shall include at a minimum, the following elements:

(*1*) A general supervisor who has the responsibility and authority to direct all hazardous waste operations.

(*2*) A site safety and health supervisor who has the responsibility and authority to develop and implement the site safety and health plan and verify compliance.

(*3*) All other personnel needed for hazardous waste site operations and emergency response and their general functions and responsibilities.

(*4*) The lines of authority, responsibility, and communication.

(B) The organizational structure shall be reviewed and updated as necessary to reflect the current status of waste site operations.

(C) The original organizational structure plan and any changes to the overall organizational structure shall be made available to all affected employees.

(iii) *Comprehensive workplan chapter.* The comprehensive workplan chapter shall address the tasks and objectives of site operations and the logistics and resources required to reach those tasks and objectives.

(A) The comprehensive workplan shall address anticipated clean-up activities as well as normal operating procedures.

(B) The comprehensive workplan shall define work tasks and objectives and identify the methods for accomplishing those tasks and objectives.

(C) The comprehensive workplan shall establish personnel requirements for implementing the plan.

(D) The comprehensive workplan shall provide for the implementation of the training required in paragraph (e) of this section.

(E) The comprehensive workplan shall provide for the implementation of the required informational programs required in paragraph (i) of this section.

(F) The comprehensive workplan shall provide for the implementation of the medical surveillance program described in paragraph (f) of this section.

(iv) *Site-specific safety and health plan chapter.* The site safety and health plan, which is part of the overall safety and health program shall be available on the site for inspection by employees, their designated representatives, and OSHA personnel, shall address the safety and health hazards of each phase of site operation; and include the requirements and procedures for employee protection.

(A) The site safety and health plan, as a minimum, shall address the following:

(*1*) Names of key personnel and alternates responsible for site safety and health, including a site safety and health supervisor.

(*2*) A safety and health risk or hazard analysis for each site task and operation found in the workplan.

(*3*) Employee training assignments to assure compliance with paragraph (e) of this section.

(*4*) Personal protective equipment to be used by employees for each of the site tasks and operations being conducted as required by the personal protective equipment program in paragraph (g)(5) of this section.

(*5*) Medical surveillance requirements in accordance with the program in paragraph (f) of this section.

(*6*) Frequency and types of air monitoring, personnel monitoring, and environmental sampling techniques and instrumentation to be used including methods of maintenance and calibration of monitoring and sampling equipment to be used.

(*7*) Site control measures in accordance with the site control program required in paragraph (d) of this section.

(*8*) Decontamination procedures in accordance with paragraph (k) of this section.

(*9*) An emergency response plan meeting the requirements of paragraphs (l)(1)(i) and (l)(1)(ii) of this section for safe and effective responses to emergencies, including the necessary PPE and other equipment.

(*10*) Confined space entry procedures.

(B) Pre-entry briefings shall be held prior to initiating any site activity and at such other times as necessary to ensure that employees are apprised of the site safety and health plan and that this plan is being followed.

(C) Inspections shall be conducted by the site safety and health supervisor or, in the absence of that individual, another individual acting on behalf of the employer as necessary to determine the effectiveness of the site safety and health plan. Any deficiencies in the effectiveness of the site safety and health plan shall be corrected by the employer.

(*11*) When major spills may be anticipated due to the type of work involved, a spill containment program meeting the requirements of paragraph (j)(1) of this section shall be included.

(2) *Site excavation.* Site excavations created during initial site preparation or during hazardous waste operations shall be shored or sloped as appropriate to prevent accidental collapse in accordance with Subpart P of 29 CFR Part 1926.

(3) *Contractors and sub-contractors.* (i) An employer who retains contractor or sub-contractor services for work in hazardous waste operations shall inform those contractors, sub-contractors, or their representatives of any potential fire, explosion, health, safety or other hazards of the hazardous waste operation that have been identified by the employer including the employer's information program.

(ii) The safety and health program required in paragraph (b)(1) of this section shall be made available to any subcontractor or its representative who will be involved with the hazardous waste operation and employees, their designated representatives, and OSHA personnel.

(c) *Site characterization and analysis.* Hazardous waste sites shall be evaluated in accordance with this paragraph to identify specific site hazards and to determine the appropriate safety and health control procedures needed to protect employees from the identified hazards.

(1) A preliminary evaluation of a site's characteristics shall be performed prior to site entry by a qualified person in order to aid in the selection of appropriate employee protection methods prior to site entry. Immediately after initial site entry, a more detailed evaluation of the site's specific characteristics shall be performed by a qualified person in order to further identify existing site hazards and to further aid in the selection of the appropriate engineering controls and

personal protective equipment for the tasks to be performed.

(2) All suspected conditions that may pose inhalation or skin absorption hazards that are immediately dangerous to life or health (IDLH) or other conditions that may cause death or serious harm, shall be identified during the preliminary survey and evaluated during the detailed survey. Examples of such hazards include, but are not limited to, confined space entry, potentially explosive or flammable situations, visible vapor clouds, or areas where biological indicators such as dead animals or vegetation are located.

(3) The following information to the extent available shall be obtained by the employer prior to allowing employees to enter a site:

(i) Location and approximate size of the site.

(ii) Description of the response activity and/or the job task to be performed.

(iii) Duration of the planned employee activity.

(iv) Site topography.

(v) Site accessibility by air and roads.

(vi) Pathways for hazardous substance dispersion.

(vii) Present status and capabilities of emergency response teams that would provide assistance to hazardous waste clean-up site employees at the time of an emergency.

(viii) Hazardous substances and health hazards involved or expected at the site and their chemical and physical properties.

(4) Personal protective equipment (PPE) shall be provided and used during initial site entry in accordance with the following requirements:

(i) Based upon the results of the preliminary site evaluation, an ensemble of PPE shall be selected and used during initial site entry which will provide protection to a level of exposure below established permissible exposure limits for known or suspected hazardous substances and health hazards, and which will provide protection against other known and suspected hazards identified during the preliminary site evaluation.

(ii) During initial site entry an escape self-contained breathing apparatus of at least five minutes' duration shall be carried by employees or kept available at their immediate work station if positive-pressure self-contained breathing apparatus is not used as part of the entry ensemble.

(iii) If the preliminary site evaluation does not produce sufficient information to identify the hazards or suspected hazards of the site, an ensemble providing protection equivalent to Level B PPE shall be provided as minimum protection, and direct reading instruments shall be used as appropriate for identifying IDLH conditions. (See Appendix B for a description of Level B hazards and the requirements for Level B protective equipment.)

(iv) Once the hazards of the site have been identified, the appropriate PPE shall be selected and used in accordance with paragraph (g) of this section.

(5) The following monitoring shall be conducted during initial site entry when the site evaluation produces information that shows the potential for ionizing radiation or IDLH conditions, or when the site information is not sufficient to reasonably eliminate these possible conditions:

(i) Monitoring for hazardous levels of ionizing radiation.

(ii) Monitoring the air with appropriate test equipment for IDLH and other conditions that may cause death or serious harm (combustible or explosive atmospheres, oxygen deficiency, toxic substances).

(iii) Visually observing for signs of actual or potential IDLH or other dangerous conditions.

(6) Once the presence and concentrations of specific hazardous substances and health hazards have been established, the risks associated with these substances shall be identified. Employees who will be working on the site shall be informed of any risks that have been identified. In situations covered by the Hazard Communication Standard, 29 CFR 1910.1200, training required by that standard need not be duplicated.

Note.—Risks to consider include, but are not limited to:

a. Exposures exceeding the appropriate established Permissible Exposure Limits (PELs), Threshold Limit Values (TLVs), or Recommended Exposure Limits (RELs), etc.

b. IDLH Concentrations.

c. Potential Skin Absorption and Irritation Sources.

d. Potential Eye Irritation Sources.

e. Explosion Sensitivity and Flammability Ranges.

(7) Any information concerning the chemical, physical, and toxicologic properties of each substance known or expected to be present on site that is available to the employer and relevant to the duties an employee is expected to perform shall be made available to the affected employees prior to the commencement of their work activities.

(8) An ongoing air monitoring program in accordance with paragraph (h) of this section shall be implemented after site characterization has determined the site is safe for the start-up of operations.

(d) *Site control.* Appropriate site control procedures shall be implemented before clean-up work begins to control employee exposure to hazardous substances.

(1) A site control program for protecting employees which is part of the employer's safety and health program required in paragraph (b) of this section shall be developed during the planning stages of a hazardous waste operation clean-up and modified as necessary as new information becomes available.

(2) The site control program shall, as a minimum, include: A site map; site work zones; the use of a "buddy system"; site communications; the standard operating procedures or safe work practices; and, identification of the nearest medical assistance.

(e) *Training.* Initial or review training meeting the requirements of this paragraph shall be provided to employees before they are permitted to engage in hazardous waste operations that could expose them to hazardous substances, safety, or health hazards.

(1) All employees (such as but not limited to equipment operators and general laborers) exposed to hazardous substances, health hazards, or safety hazards shall be thoroughly trained in the following:

(i) Names of personnel and alternates responsible for site safety and health;

(ii) Safety, health and other hazards present on the site;

(iii) Use of personal protective equipment;

(iv) Work practices by which the employee can minimize risks from hazards;

(v) Safe use of engineering controls and equipment on the site;

(vi) Medical surveillance requirements including recognition of symptoms and signs which might indicate overexposure to hazards; and

(vii) The contents of paragraphs (7) through (10) of the site safety and health plan set forth in paragraph (b)(1)(iv)(A) of this section.

(2) All employees shall at the time of job assignment receive a minimum of 40 hours of initial instruction off the site, and a minimum of three days of actual field experience under the direct supervision of a trained, experienced supervisor. Workers who may be exposed to unique or special hazards shall be provided additional training. The level of training provided shall be consistent with the employee's job function and responsibilities.

(3) On-site management and supervisors directly responsible for, or who supervise employees engaged in,

hazardous waste operations shall receive training as provided in paragraph (e)(1) and (e)(2) of this section, and at least eight additional hours of specialized training at the time of job assignment on such topics as, but not limited to, the employer's safety and health program and the associated employee training program, personal protective equipment program, spill containment program, and health hazard monitoring techniques.

(4) Trainers shall be qualified to instruct employees about the subject matter that is being presented in training.

Note.—Trainers can show their qualifications by having the knowledge or training equivalent to a level of training higher than the level they are presenting. This may be shown by academic degrees, training courses completed and/or work experience.

(5) Employees shall not be permitted to participate in field activities until they have been trained to a level required by their job function and responsibility.

(6) Employees and supervisors that have received and successfully completed the training and field experience specified in paragraphs (e)(1), (e)(2) and (e)(3) of this section shall be certified by their instructor as having completed the necessary training. A written certificate shall be given to each person so certified. Any person who has not been so certified nor meets the requirements of paragraph (e)(9) of this section shall be prohibited from engaging in hazardous waste operations.

(7) Employees who are engaged in responding to hazardous emergency situations at hazardous waste clean-up sites that may expose them to hazardous substances shall be trained in how to respond to expected emergencies.

(8) Employees specified in paragraph (e)(1), and managers and supervisors specified in paragraph (e)(3) of this section, shall receive eight hours of refresher training annually on the items specified in paragraph (e)(1) and/or (e)(3) of this section and other relevant topics.

(9) Employers who can show that an employee's work experience and/or training has resulted in initial training equivalent to that training required in paragraphs (e)(1), (e)(2), and (e)(3) of this section shall not be required to provide the initial training requirements of those paragraphs. Equivalent training includes the training that existing employees might have already received from actual site work experience.

(f) *Medical surveillance.* Medical surveillance shall be provided in accordance with this paragraph for employees exposed or potentially exposed to hazardous substances or health hazards or who wear respirators.

(1) *Employees covered.* A medical surveillance program which is part of the employer's safety and health program required in paragraph (b) of this section or required in paragraphs (l)(4) or (o)(3) of this section, shall be instituted by the employer for:

(i) All employees who are or may be exposed to hazardous substances or health hazards at or above the established exposure levels for these substances, without regard to the use of respirators, for 30 days or more a year.

(ii) All employees who wear a respirator for 30 days or more a year or as required by § 1910.134.

(iii) All employees who are injured due to overexposure from an emergency incident involving hazardous substances or health hazards.

(2) *Frequency of medical examinations and consultations.* Medical examinations and consultations shall be made available by the employer to each employee covered under paragraph (f)(1) of this section on the following schedules:

(i) For employees covered under paragraphs (f)(1)(i) and (f)(1)(ii):

(A) Prior to assignment;

(B) At least once every twelve months for each employee covered;

(C) At termination of employment or reassignment to an area where the employee would not be covered if the employee has not had an examination within the last six months;

(D) As soon as possible upon notification by an employee that the employee has developed signs or symptoms indicating possible overexposure to hazardous substances or health hazards or that the employee has been exposed above the established exposure levels in an emergency situation;

(E) At more frequent times, if the examining physician determines that an increased frequency of examination is medically necessary.

(ii) For employees covered under paragraph (f)(1)(iii) and for all employees who may have been exposed during an emergency incident to hazardous substances at concentrations above the established exposure levels without the necessary personal protective equipment being used:

(A) As soon as possible following the emergency incident;

(B) Additional times, if the examining physician determines that follow-up examinations or consultations are medically necessary.

(3) *Content of medical examinations and consultations.* (i) Medical examinations required by paragraph (f)(2) of this section shall include a medical and work history (or updated history if one is in the employee's file) with special emphasis on symptoms related to the handling of hazardous substances and health hazards, and to fitness for duty including the ability to wear any required PPE under conditions (i.e., temperature extremes) that may be expected at the work site.

(ii) The content of medical examinations or consultations made available to employees pursuant to paragraph (f) shall be determined by the examining physician.

(4) *Examination by a physician and costs.* All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(5) *Information provided to the physician.* The employer shall provide one copy of this standard and its appendices to the examining physician, and in addition the following for each employee:

(i) A description of the employee's duties as they relate to the employee's exposures.

(ii) The employee's exposure levels or anticipated exposure levels.

(iii) A description of any personal protective equipment used or to be used.

(iv) Information from previous medical examinations of the employee which is not readily available to the examining physician.

(v) Information required by § 1910.134.

(6) *Physician's written opinion.* (i) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(A) The results of the medical examination and tests if requested by the employee.

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from work in hazardous waste operations or emergency response, or from respirators use as required by § 1910.134.

(C) The physician's recommended limitations upon the employee's assigned work.

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposure.

(7) *Recordkeeping.* (i) An accurate record of the medical surveillance required by paragraph (f) of this section shall be retained. This record shall be retained for the period specified and meet the criteria of 29 CFR 1910.20.

(ii) The record required in paragraph (f)(7)(i) of this section shall include at least the following information:

(A) The name and social security number of the employee;

(B) Physicians' written opinions, recommended limitations, and results of examinations and tests;

(C) Any employee medical complaints related to exposure to hazardous substances;

(D) A copy of the information provided to the examining physician by the employer, with the exception of the standard and its appendices.

(g) *Engineering controls, work practices, and personal protective equipment for employee protection.* Engineering controls, work practices, personal protective equipment, or a combination of these shall be implemented in accordance with this paragraph to protect employees from exposure to hazardous substances and health hazards.

(1) *Engineering controls, work practices and PPE for substances regulated in Subpart Z.* (i) Engineering controls and work practices shall be instituted to reduce and maintain employee exposure to or below the permissible exposure limits for substances regulated by 29 CFR Part 1910, Subpart Z, except to the extent that such controls and practices are not feasible.

Note.—Engineering controls which may be feasible include the use of pressurized cabs or control booths on equipment, and/or the use of remotely operated material handling equipment. Work practices which may be feasible are removing all non-essential employees from potential exposure during opening of drums, wetting down dusty operations and locating employees upwind of possible hazards.

(ii) Whenever engineering controls and work practices are not feasible, PPE shall be used to reduce and maintain employee exposures to or below the permissible exposure limits or dose limits for substances regulated by 29 CFR Part 1910, Subparts G and Z.

(iii) The employer shall not implement a schedule of employee rotation as a means of compliance with permissible dose limits except when there is no other feasible way of complying with the airborne or dermal dose limits for ionizing radiation.

(2) *Engineering controls, work practices, and personal protective equipment for substances not requlated in Subpart Z.* An appropriate combination of engineering controls, work practices, and personal protective equipment shall be established to reduce and maintain employee exposure to or below appropriate exposure levels for hazardous substances and health hazards not regulated by 29 CFR Part 1910, Subparts G and Z taking into account the established exposure levels.

(3) *Personal protective equipment selection.* (i) Personal protective equipment (PPE) shall be selected and used which will protect employees from the hazards and potential hazards they are likely to encounter as identified during the site characterization and analysis.

(ii) Personal protective equipment selection shall be based on an evaluation of the performance characteristics of the PPE relative to the requirements and limitations of the site, the task-specific conditions and duration, and the hazards and potential hazards identified at the site.

(iii) Positive pressure self-contained breathing apparatus, or positive pressure air-line respirators equipped with an escape air supply, shall be used in IDLH conditions.

(iv) Totally-encapsulating chemical protective suits (Protection equivalent to Level A protection as specified in Appendix B) shall be used in conditions where skin absorption of a hazardous substance may result in an IDLH situation.

(v) The level of protection provided by PPE selection shall be increased when additional information on site conditions show that increased protection is necessary to reduce employee exposures below established permissible exposure limits for hazardous substances and health hazards. (See Appendix B for guidance on selecting PPE ensembles.)

Note.—The level of employee protection provided may be decreased when additional information or site conditions show that decreased protection will not result in increased hazardous exposures to employees.

(vi) Personal protective equipment shall be selected and used to meet the requirements of 29 CFR Part 1910, Subpart I, and additional requirements specified in this section.

(4) *Totally-encapsulating chemical protective suits.* (i) Totally-encapsulating suit materials used for Level A protection shall protect employees from the particular hazards which are identified during site characterization and analysis.

(ii) Totally-encapsulating suits shall be capable of maintaining positive air pressure. (See Appendix A.)

(iii) Totally-encapsulating suits shall be capable of preventing inward test gas leakage of more than 0.5 percent. (See Appendix A.)

(5) *Personal protective equipment (PPE) proqram.* A written personal protective equipment program, which is part of the employer's safety and health program required in paragraph (b) of this section or required in paragraph (1)(4) of this section, shall be established for hazardous waste operations which shall be part of the site-specific safety and health plan. The PPE program shall address the following elements:

(i) Site hazards,

(ii) PPE selection,

(iii) PPE use,

(iv) Work mission duration,

(v) PPE maintenance and storage,

(vi) PPE decontamination,

(vii) PPE training and proper fitting,

(viii) PPE donning and doffing procedures,

(ix) PPE inspection,

(x) PPE in-use monitoring,

(xi) Evaluation of the effectiveness of the PPE program, and

(xii) Limitations during temperature extremes, and other appropriate medical considerations.

(h) *Monitoring.* Monitoring shall be performed in accordance with this paragraph to assure proper selection of engineering controls, work practices and personal protective equipment so that employees are not exposed to levels which exceed established permissible exposure limits for hazardous substances.

(1) Air monitoring shall be used to identify and quantify airborne levels of hazardous substances and health hazards in order to determine the appropriate level of employee protection needed on site.

(2) Upon initial entry, representative air monitoring shall be conducted to identify any IDLH condition, exposure over established exposure levels, exposure over a radioactive material's dose limits or other dangerous condition such as the presence of flammable atmospheres or oxygen-deficient environments.

(3) Periodic monitoring shall be conducted when the possibility of an IDLH condition or flammable atmosphere has developed or when there is indication that exposures may have risen since prior monitoring. Situations where it shall be considered

whether the possibility that exposures have risen are when:

(i) Work begins on a different portion of the site.

(ii) Contaminants other than those previously identified are being handled.

(iii) A different type of operation is initiated (e.g., drum opening as opposed to exploratory well drilling).

(iv) Employees are handling leaking drums or containers or working in areas with obvious liquid contamination (e.g., a spill or lagoon).

(v) A sufficient reasonable interval has passed so that exposures may have significantly increased.

(4) After hazardous waste clean-up operations commence, the employer shall monitor those employees likely to have the highest exposures to hazardous substances and health hazards likely to be present above established permissible exposure limits by using personal sampling frequently enough to characterize employee exposures. The employer may utilize a representative sampling approach by documenting that the employees and chemicals chosen for monitoring are based on the criteria stated above.

Note.—It is not required to monitor employees engaged in site characterization operations covered by paragraph (c) of this section.

(i) *Informational programs.* Employers shall develop and implement a program, which is part of the employer's safety and health program required in paragraph (b) of this section, to inform employees, contractors, and subcontractors (or their representative) actually engaged in hazardous waste operations of the nature, level and degree of exposure likely as a result of participation in such hazardous waste operations. Employees, contractors and subcontractors working outside of the operations part of a site are not covered by this standard.

(j) *Handling drums and containers.* Hazardous substances and contaminated soils, liquids, and other residues shall be handled, transported, labeled, and disposed of in accordance with this paragraph.

(1) *General.* (i) Drums and containers used during the clean-up shall meet the appropriate DOT, OSHA, and EPA regulations for the wastes that they contain.

(ii) When practical, drums and containers shall be inspected and their integrity shall be assured prior to being moved. Drums or containers that cannot be inspected before being moved because of storage conditions (i.e., buried beneath the earth, stacked behind other drums, stacked several tiers high in a pile, etc.) shall be moved to an accessible location and inspected prior to further handling.

(iii) Unlabelled drums and containers shall be considered to contain hazardous substances and handled accordingly until the contents are positively identified and labeled.

(iv) Site operations shall be organized to minimize the amount of drum or container movement.

(v) Prior to movement of drums or containers, all employees exposed to the transfer operation shall be warned of the potential hazards associated with the contents of the drums or containers.

(vi) U.S. Department of Transportation specified salvage drums or containers and suitable quantities of proper absorbent shall be kept available and used in areas where spills, leaks, or ruptures may occur.

(vii) Where major spills may occur, a spill containment program, which is part of the employer's safety and health program required in paragraph (b) of this section, shall be implemented to contain and isolate the entire volume of the hazardous substance being transferred.

(viii) Drums and containers that cannot be moved without rupture, leakage, or spillage shall be emptied into a sound container using a device classified for the material being transferred.

(ix) A ground-penetrating system or other type of detection system or device shall be used to estimate the location and depth of buried drums or containers.

(x) Soil or covering material shall be removed with caution to prevent drum or container rupture.

(xi) Fire extinguishing equipment meeting the requirements of 29 CFR Part 1910, Subpart L, shall be on hand and ready for use to control incipient fires.

(2) *Opening drums and containers.* The following procedures shall be followed in areas where drums or containers are being opened:

(i) Where an airline respirator system is used, connections to the bank of air cylinders shall be protected from contamination and the entire system shall be protected from physical damage.

(ii) Employees not actually involved in opening drums or containers shall be kept a safe distance from the drums or containers being opened.

(iii) If employees must work near or adjacent to drums or containers being opened, a suitable shield that does not interfere with the work operation shall be placed between the employee and the drums or containers being opened to protect the employee in case of accidental explosion.

(iv) Controls for drum or container opening equipment, monitoring equipment, and fire suppression equipment shall be located behind the explosion-resistant barrier.

(v) When there is a reasonable possibility of flammable atmospheres being present, material handling equipment and hand tools shall be of the type to prevent sources of ignition.

(vi) Drums and containers shall be opened in such a manner that excess interior pressure will be safely relieved. If pressure cannot be relieved from a remote location, appropriate shielding shall be placed between the employee and the drums or containers to reduce the risk of employee injury.

(vii) Employees shall not stand upon or work from drums or containers.

(3) *Material handling equipment.* Material handling equipment used to transfer drums and containers shall be selected, positioned and operated to minimize sources of ignition related to the equipment from igniting vapors released from ruptured drums or containers.

(4) *Radioactive wastes.* Drums and containers containing radioactive wastes shall not be handled until such time as their hazard to employees is properly assessed.

(5) *Shock sensitive wastes.*

Caution.—Shipping of shock sensitive wastes may be prohibited under U.S. Department of Transportation regulations. Employers and their shippers should refer to 49 CFR 173.21 and 173.50.

As a minimum, the following special precautions shall be taken when drums and containers containing or suspected of containing shock-sensitive wastes are handled:

(i) All non-essential employees shall be evacuated from the area of transfer.

(ii) Material handling equipment shall be provided with explosive containment devices or protective shields to protect equipment operators from exploding containers.

(iii) An employee alarm system capable of being perceived above surrounding light and noise conditions shall be used to signal the commencement and completion of explosive waste handling activities.

(iv) Continuous communications (i.e., portable radios, hand signals, telephones, as appropriate) shall be maintained between the employee-in-charge of the immediate handling area and the site safety and health supervisor or command post until such time as the handling operation is completed. Communication equipment or methods

that could cause shock sensitive materials to explode shall not be used.

(v) Drums and containers under pressure, as evidenced by bulging or swelling, shall not be moved until such time as the cause for excess pressure is determined and appropriate containment procedures have been implemented to protect employees from explosive relief of the drum.

(vii) Drums and containers containing packaged laboratory wastes shall be considered to contain shock-sensitive or explosive materials until they have been characterized.

(6) *Laboratory waste packs.* In addition to the requirements of paragraph (j)(5) of this section, the following precautions shall be taken, as a minimum, in handling laboratory waste packs (lab packs):

(i) Lab packs shall be opened only when necessary and then only by an individual knowledgable in the inspection, classification, and segregation of the containers within the pack according to the hazards of the wastes.

(ii) If crystalline material is noted on any container, the contents shall be handled as a shock-sensitive waste until the contents are identified.

(7) *Sampling drums and containers.* Sampling of containers and drums shall be done in accordance with a sampling procedure which is part of the site safety and health plan developed for and available to employees and others at the specific worksite.

(8) *Shipping and transport.* (i) Drums and containers shall be identified and classified prior to packaging for shipment.

(ii) Drum or container staging areas shall be kept to the minimum number necessary to identify and classify materials safely and prepare them for transport.

(iii) Staging areas shall be provided with adequate access and egress routes.

(iv) Bulking of hazardous wastes shall be permitted only after a thorough characterization of the materials has been completed.

(9) *Tank and vault procedures.* (i) Tanks and vaults containing hazardous substances shall be handled in a manner similar to that for drums and containers, taking into consideration the size of the tank or vault.

(ii) Appropriate tank or vault entry procedures meeting paragraph (b)(1)(iv)(A)(*10*) of this section shall be followed whenever employees must enter a tank or vault.

(k) *Decontamination.* Procedures for all phases of decontamination shall be developed and implemented in accordance with this paragraph.

(1) A decontamination procedure shall be developed, communicated to employees and implemented before any employees or equipment may enter areas on site where potential for exposure to hazardous substances exists.

(2) Standard operating procedures shall be developed to minimize employee contact with hazardous substances or with equipment that has contacted hazardous substances.

(3) Decontamination shall be performed in geographical areas that will minimize the exposure of uncontaminated employees or equipment to contaminated employees or equipment.

(4) All employees leaving a contaminated area shall be appropriately decontaminated; all clothing and equipment leaving a contaminated area shall be appropriately disposed of or decontaminated.

(5) Decontamination procedures shall be monitored by the site safety and health supervisor to determine their effectiveness. When such procedures are found to be ineffective, appropriate steps shall be taken to correct any deficiencies.

(6) All equipment and solvents used for decontamination shall be decontaminated or disposed of properly.

(7) Protective clothing and equipment shall be decontaminated, cleaned, laundered, maintained or replaced as needed to maintain their effectiveness.

(8) Employees whose non-impermeable clothing becomes wetted with hazardous substances shall immediately remove that clothing and proceed to shower. The clothing shall be disposed of or decontaminated before it is removed from the work zone.

(9) Unauthorized employees shall not remove protective clothing or equipment from change rooms.

(10) Commercial laundries or cleaning establishments that decontaminate protective clothing or equipment shall be informed of the potentially harmful effects of exposures to hazardous substances.

(11) Where the decontamination procedure indicates a need for regular showers and change rooms outside of a contaminated area, they shall be provided and meet the requirements of 29 CFR 1910.141. If temperature conditions prevent the effective use of water then other effective means for cleansing shall be provided and used.

(l) *Emergency response.* Emergency response at hazardous waste operation incidents shall be conducted in accordance with this paragraph.

(1) *General*—(i) *Emergency response plan.* An emergency response plan shall be developed and implemented by all employers within the scope of this section to handle anticipated emergencies prior to the commencement of hazardous waste operations. The plan shall be in writing and available for inspection and copying by employees, their representatives and OSHA personnel. Employers who will evacuate their employees from the workplace when an emergency occurs and who do not permit any of their employees to respond to assist in handling the emergency are exempt from the requirements of this paragraph if they provide an emergency action plan complying with section 1910.38(a) of this part.

(ii) *Elements of an emergency response plan.* The employer shall develop an emergency response plan for emergencies which shall address, as a minimum, the following:

(A) Pre-emergency planning.

(B) Personnel roles, lines of authority, training, and communication.

(C) Emergency recognition and prevention.

(D) Safe distances and places of refuge.

(E) Site security and control.

(F) Evacuation routes and procedures.

(G) Decontamination.

(H) Emergency medical treatment and first aid.

(I) Emergency alerting and response procedures.

(J) Critique of response and follow-up.

(K) PPE and emergency equipment.

(2) *Emergency response at hazardous waste clean-up sites*—(i) *Training.* (A) Training for emergency response employees at clean-up operations shall be conducted in accordance with paragraph (e) of this section for employers covered by paragraph (a)(1)(i) through (iii) of this section and in accordance with paragraph (o)(5) of this section for those employers covered by paragraph (a)(1)(iv) of this section.

(B) Employers who can show that an employee's work experience and/or training has resulted in training equivalent to that training required in paragraph (l)(2)(i)(A) of this section shall not be required to provide the initial training requirements of those paragraphs. Equivalent training includes the training that existing employees might have already received from actual site work experience.

(ii) *Procedures for handling emergency incidents.* (A) In addition to the elements for the emergency response plan required in paragraph (l)(1)(ii) of this section, the following elements shall

be included for emergency response plans:

(*1*) Site topography, layout, and prevailing weather conditions.

(*2*) Procedures for reporting incidents to local, state, and federal governmental agencies.

(B) The emergency response plan shall be a separate section of the Site Safety and Health Plan.

(C) The emergency response plan shall be compatible and integrated with the disaster, fire and/or emergency response plans of local, state, and federal agencies.

(D) The emergency response plan shall be rehearsed regularly as part of the overall training program for site operations.

(E) The site emergency response plan shall be reviewed periodically and, as necessary, be amended to keep it current with new or changing site conditions or information.

(F) An employee alarm system shall be installed in accordance with 29 CFR 1910.165 to notify employees of an emergency situation; to stop work activities if necessary; to lower background noise in order to speed communication; and to begin emergency procedures.

(G) Based upon the information available at time of the emergency, the employer shall evaluate the incident and the site response capabilities and proceed with the appropriate steps to implement the site emergency response plan.

(3) *Emergency response at sites other than hazardous waste clean-up sites*—(i) *Training.* Employers shall provide the training specified by this paragraph for those employees for whom there exists the reasonable possibility of responding to emergencies at sites other than hazardous waste clean-up sites.

(A) *Emergency response organizations or teams.* Employees on emergency response organizations or teams such as fire brigades, fire departments, plant emergency organizations, hazardous materials teams, spill response teams and similar groups with responsibility for emergency response shall be trained to a level of competence to protect themselves and other employees in the recognition of health and safety hazards, methods to minimize the risk from safety and health hazards, safe use of control equipment, selection and use of appropriate personal protective equipment, safe operating procedures to be used at the incident scene, techniques of coordination with other employees to minimize risks, appropriate response to over exposure from health hazards or injury to themselves and other employees and recognition of subsequent symptoms which may result from over exposures.

(*1*) Competency may be demonstrated by 24 hours of training annually in those areas with training sessions at least monthly or by demonstrations by the employee of competency in those areas at least quarterly.

(*2*) A certification shall be made of the training or competency and if certification of competency is made, the employer shall keep a record of the methodology used to demonstrate competency.

(*3*) An employer of employees for whom the reasonable possibility of responding to emergencies at other than hazardous waste clean-up sites exists need not train all such employees to the degree specified in paragraph (l)(3)(i)(A)(*1*) of this section if the employer divides the work force such that sufficient employees who have responsibility to control the emergency have the training specified in this paragraph and other employees who may first respond to the incident have sufficient awareness training to recognize that an emergency response situation exists and are instructed in that case to summon the employees who are fully trained and not attempt control activities for which they are not trained.

(*4*) An employer of employees for whom the reasonable possibility exists of responding to emergencies at other than hazardous waste clean-up sites need not train such employees to the degree specified in paragraph (l)(3)(i)(A)(*1*) of this section if:

(*i*) arrangements have been made in advance for a fully-trained emergency response team to respond in a reasonable period; and

(*ii*) employees who may come to the incident first have sufficient awareness training to recognize that an emergency response situation exists and are instructed to call the designated fully-trained emergency response team for assistance.

(B) *Specialist employees.* Employees who, in the course of their regular job duties, work with and are trained in the hazards of specific materials covered by this standard, and who will be called upon to provide technical advice or assistance at a hazardous substance release incident, are exempt from the monthly training sessions required in paragraph (l)(3)(i)(A) of this section. They must, pursuant to paragraph (l)(3)(i)(A) however, receive at least 24 hours of training annually or demonstrate competency in the area of their specialization.

(C) *Skilled support personnel.* Personnel, not necessarily an employer's own employees, who are needed to perform immediate emergency support work that cannot reasonably be performed in a timely fashion by an employer's own employees, and who will be or may potentially be exposed to the hazards at an emergency response scene, are not required to have the 24 hours of annual training or demonstrate the competency required for the employer's regular employees. However, the senior official cited in paragraph (l)(3)(ii) of this section shall ensure that these personnel are given an initial briefing at the site of emergency response prior to their participation in that response that shall include instruction in the wearing of appropriate personal protective equipment, what chemical hazards are involved, and what duties are to be performed. All appropriate safety and health precautions provided to the employer's own employees shall be used to assure the safety and health of these personnel.

(ii) *Procedures for handling emergency response.* (A) The senior official responding to an emergency at other than hazardous waste clean-up sites involving a hazardous substance or health hazard shall establish and become the individual in charge of a site-specific Incident Command System (ICS). All emergency responders and their communications shall be coordinated and controlled through the individual in charge of the ICS assisted by the senior official present for each employer.

Note: The "senior official" at an off-site emergency response is the most senior official on the site who has the responsibility for controlling the operations at the site. Initially it is the senior officer on the first-due piece of responding emergency apparatus to arrive on the incident scene. As more senior officers arrive (i.e., fire chief, battalion chief, site coordinator, etc.) the position is passed up the line of authority.

(B) The individual in charge of the ICS shall identify, to the extent possible, all hazardous substances or conditions present and shall address as appropriate site analysis, use of engineering controls, maximum exposure limits, hazardous substance handling procedures, and use of any new technologies.

(C) Based on the hazardous substances and/or conditions present, the individual in charge of the ICS shall implement appropriate emergency operations, and assure that the personal protective equipment worn is appropriate for the hazards to be encountered. However, personal protective equipment shall meet, at a minimum, the criteria contained in 29

CFR 1910.156(e) when worn while performing fire fighting operations beyond the incipient stage.

(D) Employees engaged in emergency response and exposed to hazardous substances shall wear positive pressure self-contained breathing apparatus while engaged in emergency response until such time that the individual in charge of the ICS determines through the use of air monitoring that a decreased level of respiratory protection will not result in hazardous exposures to employees.

(E) The individual in charge of the ICS shall limit the number of emergency response personnel at the emergency site to those who are actively performing emergency operations. However, operations in hazardous areas shall be performed using the buddy system in groups of two or more.

(F) Back-up personnel shall stand by with equipment ready to provide assistance or rescue. Qualified basic life support personnel, as a minimum, shall also stand by with medical equipment and transportation capability.

(G) The individual in charge of the ICS shall designate a safety official, who is knowledgable in the operations being implemented at the emergency response site, with specific responsibility to identify and evaluate hazards and to provide direction with respect to the safety of operations for the emergency at hand.

(H) When activities are judged by the safety official to be an IDLH condition and/or to involve an imminent danger condition, the safety official shall have the authority to alter, suspend, or terminate those activities. The safety official shall immediately inform the individual in charge of the ICS of any actions taken to correct these hazards at an emergency scene.

(I) After emergency operations have terminated, the individual in charge of the ICS shall implement appropriate decontamination procedures.

(J) When deemed necessary for meeting the tasks at hand, approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet U.S. Department of Transportation and National Institute for Occupational Safety and Health criteria.

(4) *Hazardous materials teams (HAZMAT).* (i) Employees who are members of a HAZMAT team shall be given training in accordance with paragraph (l)(3) of this section that includes the care and use of chemical protective clothing, and procedures to be followed when working on leaking drums, containers, tanks, or bulk transport vehicles.

(ii) Members of HAZMAT teams shall receive a base line physical exam and have medical surveillance as required in paragraph (f) of this section.

(iii) Chemical personal protective clothing and equipment to be used by HAZMAT team members shall meet the requirements of paragraph (g) of this section.

(5) *Post-emergency response operations.* Upon completion of the emergency response, if it is determined that it is necessary to remove hazardous substances, health hazards, and materials contaminated with them (such as contaminated soil or other elements of the natural environment) from the site of the incident the employer conducting the clean-up shall comply with one of the following:

(i) Meet all of the requirements of paragraphs (b) through (n) of this section; or

(ii) Where the clean-up is done on plant property using plant or workplace employees, such employees shall have completed the training requirements of the following: 29 CFR 1910.38(a); 1910.134; 1910.1200, and other appropriate safety and health training made necessary by the tasks that they are expected to be performed. All equipment to be used in the performance of the clean-up work shall be in serviceable condition and shall have been inspected prior to use.

(m) *Illumination.* Areas accessible to employees shall be lighted in accordance with the requirements of this paragraph.

(1) Work areas shall be lighted to not less than the minimum illumination intensities listed in the following Table H-102.1 while any work is in progress:

TABLE H-102.1—MINIMUM ILLUMINATION INTENSITIES IN FOOT-CANDLES

Foot-candles	Area or operations
5	General site areas.
3	Excavation and waste areas, accessways, active storage areas, loading platforms, refueling, and field maintenance areas.
5	Indoors: warehouses, corridors, hallways, and exitways.
5	Tunnels, shafts, and general underground work areas. (Exception: Minimum of 10 foot-candles is required at tunnel and shaft heading during drilling, mucking, and scaling. Mine Safety and Health Administration approved cap lights shall be acceptable for use in the tunnel heading.)
10	General shops (e.g., mechanical and electrical equipment rooms, active storerooms, barracks or living quarters, locker or dressing rooms, dining areas, and indoor toilets and workrooms.)
30	First aid stations, infirmaries, and offices.

(n) *Sanitation at temporary workplaces.* Facilities for employee sanitation shall be provided in accordance with this paragraph.

(1) *Potable water.* (i) An adequate supply of potable water shall be provided on the site.

(ii) Portable containers used to dispense drinking water shall be capable of being tightly closed, and equipped with a tap. Water shall not be dipped from containers.

(iii) Any container used to distribute drinking water shall be clearly marked as to the nature of its contents and not used for any other purpose.

(iv) Where single service cups (to be used but once) are supplied, both a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

(2) *Nonpotable water.* (i) Outlets for nonpotable water, such as water for firefighting purposes shall be identified to indicate clearly that the water is unsafe and is not to be used for drinking, washing, or cooking purposes.

(ii) There shall be no cross-connection, open or potential, between a system furnishing potable water and a system furnishing nonpotable water.

(3) *Toilets facilities.* (i) Toilets shall be provided for employees according to the following Table H-102.2.

TABLE H-102.2—TOILET FACILITIES

Number of employees	Minimum number of facilities
20 or fewer	One.
More than 20, fewer than 200.	One toilet seat and 1 urinal per 40 employees.
More than 200	One toilet seat and 1 urinal per 50 employees.

(ii) Under temporary field conditions, provisions shall be made to assure that at least one toilet facility is available.

(iii) Hazardous waste sites not provided with a sanitary sewer shall be provided with the following toilet facilities unless prohibited by local codes:

(A) Chemical toilets;
(B) Recirculating toilets;
(C) Combustion toilets; or
(D) Flush toilets.

(iv) The requirements of this paragraph for sanitation facilities shall not apply to mobile crews having transportation readily available to nearby toilet facilities.

(v) Doors entering toilet facilities shall be provided with entrance locks controlled from inside the facility.

(4) *Food handling.* All food service facilities and operations for employees shall meet the applicable laws, ordinances, and regulations of the jurisdictions in which they are located.

(5) *Temporary sleeping quarters.* When temporary sleeping quarters are provided, they shall be heated, ventilated, and lighted.

(6) *Washing facilities.* The employer shall provide adequate washing facilities for employees engaged in operations where hazardous substances may be harmful to employees. Such facilities shall be in near proximity to the worksite; in areas where exposures are below established permissible exposure limits and which are under the controls of the employer; and shall be so equipped as to enable employees to remove hazardous substances for themselves.

(7) *Showers and change rooms.* When hazardous waste clean-up or removal operations commence on a site and the duration of the work will require six months or greater time to complete, the employer shall provide showers and change rooms for all employees exposed to hazardous substances and health hazards involved in hazardous waste clean-up or removal operations.

(i) Showers shall be provided and shall meet the requirements of 29 CFR 1910.141(d)(3).

(ii) Change rooms shall be provided and shall meet the requirements of 29 CFR 1910.141(1). Change rooms shall consist of two separate change areas separated by the shower area required in paragraph (n)(7)(i). One change area, with an exit leading off the worksite, shall provide employees with a clean area where they can remove, store, and put on street clothing. The second area, with an exit to the worksite, shall provide employees with an area where they can put on, remove and store work clothing and personal protective equipment.

(iii) Showers and change rooms shall be located in areas where exposures are below the established permissible exposure limits. If this cannot be accomplished, then a ventilation system shall be provided that will supply air that is below the established permissible exposure limits.

(iv) Employers shall assure that employees shower at the end of their work shift and when leaving the hazardous waste site.

(o) *Certain Operations Conducted Under the Resource Conservation and Recovery Act of 1976 (RCRA).* Employers conducting operations specified in paragraph (a)(2)(iii) of this section shall:

(1) Develop and implement a written safety and health program for employees involved in hazardous waste operations which shall be available for inspection by employees, their representatives and OSHA personnel. The program shall be designed to identify, evaluate and control safety and health hazards in their facilities for the purpose of employee protection, and provide for emergency response meeting the requirements of paragraph (l) of this section and it shall address as appropriate site analysis, engineering controls, maximum exposure limits, hazardous waste handling procedures and uses of new technologies;

(2) Implement a hazard communication program as part of the employer's safety and program meeting the requirements of 29 CFR 1910.1200.

Note.—The exemptions provided in § 1910.1200 are applicable to this section.

(3) Implement a medical surveillance program meeting the requirements of paragraph (f) of this section;

(4) Develop and implement a decontamination procedure in accordance with paragraph (k) of this section, and

(5)(i) Develop and implement a training program, which is part of the employer's safety and health program, for employees involved with hazardous waste operations to enable each employee to perform their assigned duties and functions in a safe and healthful manner so as not to endanger themselves or other employees. The initial training shall be for 24 hours and refresher training shall be for eight hours annually.

(ii) Employers who can show by an employee's previous work experience and/or training that the employee has had training equivalent to the initial training required by this paragraph, shall be considered as meeting the initial training requirements of this paragraph as to that employee. Equivalent training includes the training that existing employees might have already received from actual site work experience. Employees who have received the initial training required by this paragraph shall be given a written certificate attesting that they have successfully completed the necessary training.

(p) *New technology programs.* (1) The employer shall develop and implement procedures for the introduction of effective new technologies and equipment developed for the improved protection of employees working with hazardous waste clean-up operations, and the same shall be implemented as part of the site safety and health program to assure that employee protection is being maintained.

(2) New technologies, equipment or control measures available to the industry, such as the use of foams or other means to suppress the level of air contaminates while excavating the site or for spill control, shall be evaluated by employers or their representatives to determine their effectiveness before implementing their use on a large scale for employee protection. Such evaluations shall be made available to OSHA upon request.

Appendices to § 1910.120—Hazardous Waste Operations and Emergency Response

Note.—*The following appendices serve as non-mandatory guidelines to assist employees and employers in complying with the appropriate requirements of this section. However paragraph 1910.120(g) makes mandatory in certain circumstances the use of Level A and Level B PPE protection.*

Appendix A—Personal Protective Equipment Test Methods

This appendix sets forth the non-mandatory examples of [illegible] which may be used to evaluate compliance with paragraphs 1910.120 (g)(4)(ii) and (iii). Other tests and other challenge agents may be used to evaluate compliance.

A. *Totally-encapsulating chemical protective suit pressure test.*

1.0—*Scope.*

1.1 This practice measures the ability of a gas tight totally-encapsulating chemical protective suit material, seams, and closures to maintain a fixed positive pressure. The results of this practice allow the gas tight integrity of a total-encapsulating chemical protective suit to be evaluated.

1.2 Resistance of the suit materials to permeation, penetration, and degradation by specific hazardous substances is not determined by this test method.

2.0—*Definition of terms.*

2.1 *"Totally-encapsulated chemical protective suit (TECP suit)"* means a full body garment which is constructed of protective clothing materials; covers the wearer's torso, head, arms, and legs; may cover the wearer's hands and feet with tightly attached gloves and boots; completely encloses the wearer by itself or in combination with the wearer's respiratory equipment, gloves, and boots.

2.2 *"Protective clothing material"* means any material or combination of materials used in an item of clothing for the purpose of isolating parts of the body from direct contact with a potentially hazardous liquid or gaseous chemicals.

2.3 *"Gas tight"* means, for the purpose of this test method, the limited flow of a gas under pressure from the inside of a TECP suit to atmosphere at a prescribed pressure and time interval.

3.0—*Summary of test method.*

3.1 The TECP suit is visually inspected and modified for the test. The test apparatus

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is attached to the suit to permit inflation to the pre-test suit expansion pressure for removal of suit wrinkles and creases. The pressure is lowered to the test pressure and monitored for three minutes. If the pressure drop is excessive, the TECP suit fails the test and is removed from service. The test is repeated after leak location and repair .

4.0—*Required Supplies.*

4.1 Source of compressed air.

4.2 Test apparatus for suit testing, including a pressure measurement device with a sensitivity of at least 1/4 inch water gauge.

4.3 Vent valve closure plugs or sealing tape.

4.4 Soapy water solution and soft brush.

4.5 Stop watch or appropriate timing device.

5.0—*Safety Precautions.*

5.1 Care shall be taken to provide the correct pressure safety devices required for the source of compressed air used.

6.0—*Test Procedure.*

6.1 Prior to each test, the tester shall perform a visual inspection of the suit. Check the suit for seam integrity by visually examining the seams and gently pulling on the seams. Ensure that all air supply lines, fittings, visor, zippers, and valves are secure and show no signs of deterioration.

6.1.1 Seal off the vent valves along with any other normal inlet or exhaust points (such as umbilical air line fittings or face piece opening) with tape or other appropriate means (caps, plugs, fixture, etc.). Care should be exercised in the sealing process not to damage any of the suit components.

6.1.2 Close all closure assemblies.

6.1.3 Prepare the suit for inflation by providing an improvised connection point on the suit for connecting an airline. Attach the pressure test apparatus to the suit to permit suit inflation from a compressed air source equipped with a pressure indicating regulator. The leak tightness of the pressure test apparatus should be tested before and after each test by closing off the end of the tubing attached to the suit and assuring a pressure of three inches water gauge for three minutes can be maintained. If a component is removed for the test, that component shall be replaced and a second test conducted with another component removed to permit a complete test of the ensemble.

6.1.4 The pre-test expansion pressure (A) and the suit test pressure (B) shall be supplied by the suit manufacturer, but in no case shall they be less than; A = three inches water gauge and B=two inches water gauge. The ending suit pressure (C) shall be no less than 80 percent of the test pressure (B); i.e., the pressure drop shall not exceed 20 percent of the test pressure (B).

6.1.5 Inflate the suit until the pressure inside is equal to pressure "A", the pre-test expansion suit pressure. Allow at least one minute to fill out the wrinkles in the suit. Release sufficient air to reduce the suit pressure to pressure "B", the suit test pressure. Begin timing. At the end of three minutes, record the suit pressure as pressure "C" the ending suit pressure. The difference between the suit test pressure and the ending suit test pressure (B-C) shall be defined as the suit pressure drop.

6.1.6 If the suit pressure drop is more than 20 percent of the suit test pressure B during the three-minute test period, the suit fails the test and shall be removed from service.

7.0—*Retest Procedure.*

7.1 If the suit fails the test check for leaks by inflating the suit to pressure A and brushing or wiping the entire suit (including seams, closures, lens gaskets, glove-to-sleeve joints, etc.) with a mild soap and water solution. Observe the suit for the formation of soap bubbles, which is an indication of a leak. Repair all identified leaks.

7.2 Retest the TECP suit as outlined in Test procedure 6.0.

8.0—*Report.*

8.1 Each TECP suit tested by this practice shall have the following information recorded:

8.1.1 Unique identification number, identifying brand name, date of purchase, material of construction, and unique fit features, e.g., special breathing apparatus.

8.1.2 The actual values for test pressures A, B, and C shall be recorded along with the specific observation times. If the ending pressure (C) is less than 80 percent of the test pressure (B), the suit shall be identified as failing the test. When possible, the specific leak location shall be identified in the test records. Retest pressure data shall be recorded as an additional test.

8.1.3 The source of the test apparatus used shall be identified and the sensitivity of the pressure gauge shall be recorded.

8.1.4 Records shall be kept for each pressure test even if repairs are being made at the test location.

Caution

Visually inspect all parts of the suit to be sure they are positioned correctly and secured tightly before putting the suit back into service. Special care should be taken to examine each exhaust valve to make sure it is not blocked.

Care should also be exercised to assure that the inside and outside of the suit is completely dry before it is put into storage.

B. *Totally-encapsulating chemical protective suit qualitative leak test.*

1.0—*Scope.*

1.1 This practice semi-qualitatively tests gas tight totally-encapsulating chemical protective suit integrity by detecting inward leakage of ammonia vapor. Since no modifications are made to the suit to carry out this test, the results from this practice provide a realistic test for the integrity of the entire suit.

1.2 Resistance of the suit materials to permeation, penetration, and degradation is not determined by this test method.

2.0—*Definition of terms.*

2.1 *"Totally-encapsulated chemical protective suit (TECP suit)"* means a full body garment which is constructed of protective clothing materials; covers the wearer's torso, head, arms, and legs; may cover the wearer's hands and feet with tightly attached gloves and boots; completely encloses the wearer by itself or in combination with the wearer's respiratory equipment, gloves, and boots.

2.2 *"Protective clothing material"* means any material or combination of materials used in an item of clothing for the purpose of isolating parts of the body from direct contact with a potentially hazardous liquid or gaseous chemicals.

2.3 *"Gas tight"* means, for the purpose of this test method, the limited flow of a gas under pressure from the inside of a TECP suit to atmosphere at a prescribed pressure and time interval.

2.4 *"Intrusion Coefficient"* means a number expressing the level of protection provided by a gas tight totally-encapsulating chemical protective suit. The intrusion coefficient is calculated by dividing the test room challenge agent concentration by the concentration of challenge agent found inside the suit. The accuracy of the intrusion coefficient is dependent on the challenge agent monitoring methods. The larger the intrusion coefficient the greater the protection provided by the TECP suit.

3.0—*Summary of recommended practice.*

3.1 The volume of concentrated aqueous ammonia solution (ammonia hydroxide NH_4OH) required to generate the test atmosphere is determined using the directions outlined in 6.1. The suit is donned by a person wearing the appropriate respiratory equipment (either a self-contained breathing apparatus or a supplied air respirator) and worn inside the enclosed test room. The concentrated aqueous ammonia solution is taken by the suited individual into the test room and poured into an open plastic pan. A two-minute evaporation period is observed before the test room concentration is measured, using a high range ammonia length of stain detector tube. When the ammonia vapor reaches a concentration of between 1000 and 1200 ppm, the suited individual starts a standardized exercise protocol to stress and flex the suit. After this protocol is completed, the test room concentration is measured again. The suited individual exits the test room and his stand-by person measures the ammonia concentration inside the suit using a low range ammonia length of stain detector tube or other more sensitive ammonia detector. A stand-by person is required to observe the test individual during the test procedure; aid the person in donning and doffing the TECP suit; and monitor the suit interior. The intrusion coefficient of the suit can be calculated by dividing the average test area concentration by the interior suit concentration. A colorimetric indicator strip of bromophenol blue is placed on the inside of the suit face piece lens so that the suited individual is able to detect a color change and know if the suit has a significant leak. If a color change is observed the individual shall leave the test room immediately.

4.0—*Required supplies.*

4.1 A supply of concentrated aqueous ammonia (58 percent ammonium hydroxide by weight).

4.2 A supply of bromophenol/blue indicating paper, sensitive to 5–10 ppm ammonia or greater over a two-minute period of exposure. [(pH 3.0 (yellow) to pH 4.6 (blue)]

4.3 A supply of high range (0.5–10 volume percent) and low range (5–700 ppm) detector tubes for ammonia and the corresponding sampling pump. More sensitive ammonia

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detectors can be substituted for the low range detector tubes to improve the sensitivity of this practice.

4.4 A shallow plastic pan (PVC) at least 12":14":1" and a half pint plastic container (PVC) with tightly closing lid.

4.5 A graduated cylinder or other volumetric measuring device of at least 50 milliliters in volume with an accuracy of at least ±1 milliliters.

5.0—*Safety precautions.*

5.1 Concentrated aqueous ammonium hydroxide, NH_4OH, is a corrosive volatile liquid requiring eye, skin, and respiratory protection. The person conducting the test shall review the MSDS for aqueous ammonia.

5.2 Since the established permissible exposure limit for ammonia is 50 ppm, only persons wearing a self-contained breathing apparatus or a supplied air respirator shall be in the chamber. Normally only the person wearing the total-encapsulating suit will be inside the chamber. A stand-by person shall have a self-contained breathing apparatus, or a supplied air respirator available to enter the test area should the suited individual need assistance.

5.3 A method to monitor the suited individual must be used during this test. Visual contact is the simplest but other methods using communication devices are acceptable.

5.4 The test room shall be large enough to allow the exercise protocol to be carried out and then to be ventilated to allow for easy exhaust of the ammonia test atmosphere after the test(s) are completed.

5.5 Individuals shall be medically screened for the use of respiratory protection and checked for allergies to ammonia before participating in this test procedure.

6.0—*Test procedure.*

6.1.1 Measure the test area to the nearest foot and calculate its volume in cubic feet. Multiply the test area volume by 0.2 milliliters of concentrated aqueous ammonia solution per cubic foot of test area volume to determine the approximate volume of concentrated aqueous ammonia required to generate 1000 ppm in the test area.

6.1.2 Measure this volume from the supply of concentrated aqueous ammonia and place it into a closed plastic container.

6.1.3 Place the container, several high range ammonia detector tubes, and the pump in the clean test pan and locate it near the test area entry door so that the suited individual has easy access to these supplies.

6.2.1 In a non-contaminated atmosphere, open a pre-sealed ammonia indicator strip and fasten one end of the strip to the inside of the suit face shield lens where it can be seen by the wearer. Moisten the indicator strip with distilled water. Care shall be taken not to contaminate the detector part of the indicator paper by touching it. A small piece of masking tape or equivalent should be used to attach the indicator strip to the interior of the suit face shield.

6.2.2 If problems are encountered with this method of attachment, the indicator strip can be attached to the outside of the respirator face piece being used during the test.

6.3 Don the respiratory protective device normally used with the suit, and then don the TECP suit to be tested. Check to be sure all openings which are intended to be sealed (zippers, gloves, etc.) are completely sealed. DO NOT, however, plug off any venting valves.

6.4 Step into the enclosed test room such as a closet, bathroom, or test booth, equipped with an exhaust fan. No air should be exhausted from the chamber during the test because this will dilute the ammonia challenge concentrations.

6.5 Open the container with the pre-measured volume of concentrated aqueous ammonia within the enclosed test room, and pour the liquid into the empty plastic test pan. Wait two minutes to allow for adequate volatilization of the concentrated aqueous ammonia. A small mixing fan can be used near the evaporation pan to increase the evaporation rate of the ammonia solution.

6.6 After two minutes a determination of the ammonia concentration within the chamber should be made using the high range colorimetric detector tube. A concentration of 1000 ppm ammonia or greater shall be generated before the exercises are started.

6.7 To test the integrity of the suit the following four minute exercise protocol should be followed:

6.7.1 Raising the arms above the head with at least 15 raising motions completed in one minute.

6.7.2 Walking in place for one minute with at least 15 raising motions of each leg in a one-minute period.

6.7.3 Touching the toes with a least 10 complete motions of the arms from above the head to touching of the toes in a one-minute period.

6.7.4 Knee bends with at least 10 complete standing and squatting motions in a one-minute period.

6.8 If at any time during the test the colorimetric indicating paper should change colors, the test should be stopped and sections 6.10 and 6.12 initiated (See ¶ 4.2).

6.9 After completion of the test exercise, the test area concentration should be measured again using the high range colorimetric detector tube.

6.10 Exit the test area.

6.11 The opening created by the suit zipper or other appropriate suit penetration should be used to determine the ammonia concentration in the suit with the low range length of stain detector tube or other ammonia monitor. The internal TECP suit air should be sampled far enough from the enclosed test area to prevent a false ammonia reading.

6.12 After completion of the measurement of the suit interior ammonia concentration the test is concluded and the suit is doffed and the respirator removed.

6.13 The ventilating fan for the test room should be turned on and allowed to run for enough time to remove the ammonia gas. The fan shall be vented to the outside of the building.

6.14 Any detectable ammonia in the suit interior (five ppm ammonia (NH_3) or more for the length of stain detector tube) indicates that the suit has failed the test. When other ammonia detectors are used a lower level of detection is possible, and it should be specified as the pass/fail criteria.

6.15 By following this test method, an intrusion coefficient of approximately 200 or more can be measured with the suit in a completely operational condition.

7.0—*Retest procedures.*

7.1 If the suit fails this test, check for leaks by following the pressure test in test A above.

7.2 Retest the TECP suit as outlined in the test procedure 6.0.

8.0—*Report.*

8.1 Each gas tight totally-encapsulating chemical protective suit tested by this practice shall have the following information recorded.

8.1.1 Unique identification number, identifying brand name, date of purchase, material of construction, and unique suit features; e.g., special breathing apparatus.

8.1.2 General description of test room used for test.

8.1.3 Brand name and purchase date of ammonia detector strips and color change data.

8.1.4 Brand name, sampling range, and expiration date of the length of stain ammonia detector tubes. The brand name and model of the sampling pump should also be recorded. If another type of ammonia detector is used, it should be identified along with its minimum detection limit for ammonia.

8.1.5 Actual test results shall list the two test area concentrations, their average, the interior suit concentration, and the calculated intrusion coefficient. Retest data shall be recorded as an additional test.

8.2 The evaluation of the data shall be specified as "suit passed" or "suit failed", and the date of the test. Any detectable ammonia (five ppm or greater for the length of stain detector tube) in the suit interior indicates the suit has failed this test. When other ammonia detectors are used, a lower level of detection is possible and it should be specified as the pass fail criteria.

Caution

Visually inspect all parts of the suit to be sure they are positioned correctly and secured tightly before putting the suit back into service. Special care should be taken to examine each exhaust valve to make sure it is not blocked.

Care should also be exercised to assure that the inside and outside of the suit is completely dry before it is put into storage.

Appendix B—General Description and Discussion of the Levels of Protection and Protective Gear

This appendix sets forth information about personal protective equipment (PPE) protection levels which may be used to assist employers in complying with the PPE requirements of this section.

As required by the standard, PPE must be selected which will protect employees from the specific hazards which they are likely to encounter during their work on-site.

Selection of the appropriate PPE is a complex process which must take into consideration a variety of factors. Key factors involved in this process are identification of the hazards, or suspected hazards; their routes of potential hazard to employees

(inhalation, skin absorption, ingestion, and eye or skin contact); and the performance of the PPE *materials* (and seams) in providing a barrier to these hazards. The amount of protection provided by PPE is material-hazard specific. That is, protective equipment materials will protect well against some hazardous substances and poorly, or not at all, against others. In many instances, protective equipment materials cannot be found which will provide continuous protection from the particular hazardous substance. In these cases the breakthrough time of the protective material should exceed the work durations, or the exposure after breakthrough must not pose a hazardous level.

Other factors in this selection process to be considered are matching the PPE to the employee's work requirements and task-specific conditions. The durability of PPE materials, such as tear strength and seam strength, must be considered in relation to the employee's tasks. The effects of PPE in relation to heat stress and task duration are a factor in selecting and using PPE. In some cases layers of PPE may be necessary to provide sufficient protection, or to protect expensive PPE inner garments, suits or equipment.

The more that is known about the hazards at the site, the easier the job of PPE selection becomes. As more information about the hazards and conditions at the site becomes available, the site supervisor can make decisions to up-grade or down-grade the level of PPE protection to match the tasks at hand.

The following are guidelines which an employer can use to begin the selection of the appropriate PPE. As noted above, the site information may suggest the use of combinations of PPE selected from the different protection levels (i.e., A, B, C, or D) as being more suitable to the hazards of the work. It should be cautioned that the listing below does not fully address the performance of the specific PPE material in relation to the specific hazards at the job site, and that PPE selection, evaluation and re-selection is an ongoing process until sufficient information about the hazards and PPE performance is obtained.

Part A. Personal protective equipment is divided into four categories based on the degree of protection afforded. (See Part B of this appendix for further explanation of Levels A, B, C, and D hazards.)

I. *Level A*—To be selected when the greatest level of skin, respiratory, and eye protection is required.

The following constitute Level A equipment; it may be used as appropriate;

1. Pressure-demand, full face-piece self-contained breathing apparatus (SCBA), or pressure-demand supplied air respirator with escape SCBA, approved by the National Institute for Occupational Safety and Health (NIOSH).
2. Totally-encapsulating chemical-protective suit.
3. Coveralls.*
4. Long underwear.
5. Gloves, outer, chemical-resistant.
6. Gloves, inner, chemical-resistant.
7. Boots, chemical-resistant, steel toe and shank.
8. Hard hat (under suit).*
9. Disposable protective suit, gloves and boots (depending on suit construction, may be worn over totally-encapsulating suit).
10. Two-way radios (worn inside encapsulating suit).

II. *Level B*—The highest level of respiratory protection is necessary but a lesser level of skin protection is needed.

The following constitute Level B equipment; it may be used as appropriate.

1. Pressure-demand, full-facepiece self-contained breathing apparatus (SCBA), or pressure-demand supplied air respirator with escape SCBA (NIOSH approved).
2. Hooded chemical-resistant clothing (overalls and long-sleeved jacket; coveralls; one or two-piece chemical-splash suit; disposable chemical-resistant overalls).
3. Coveralls.*
4. Gloves, outer, chemical-resistant.
5. Gloves, inner, chemical-resistant.
6. Boots, outer, chemical-resistant steel toe and shank.
7. Boot-covers, outer, chemical-resistant (disposable).*
8. Hard hat.
9. Two-way radios (worn inside encapsulating suit).
10. Face shield.*

III. *Level C*—The concentration(s) and type(s) of airborne substance(S) is known and the criteria for using air purifying respirators are met.

The following constitute Level C equipment; it may be used as appropriate

1. Full-face or half-mask, air purifying respirators (NIOSH approved).
2. Hooded chemical-resistant clothing (overalls; two-piece chemical-splash suit; disposable chemical-resistant overalls).
3. Coveralls.*
4. Gloves, outer, chemical-resistant.
5. Gloves, inner, chemical-resistant.
6. Boots (outer), chemical-resistant steel toe and shank.*
7. Boot-covers, outer, chemical-resistant (disposable)*.
8. Hard hat.
9. Escape mask.*
10. Two-way radios (worn under outside protective clothing).
11. Face shield.*

IV. *Level D*—A work uniform affording minimal protection, used for nuisance contamination only.

The following constitute Level D equipment; it may be used as appropriate:

1. Coveralls.
2. Gloves.*
3. Boots/shoes, chemical-resistant steel toe and shank.
4. Boots, outer, chemical-resistant (disposable).*
5. Safety glasses or chemical splash goggles*.
6. Hard hat.
7. Escape mask.*
8. Face shield.*

Part B. The types of hazards for which levels A, B, C, and D protection are appropriate are described below:

I. *Level A*—Level A protection should be used when:

1. The hazardous substance has been identified and requires the highest level of protection for skin, eyes, and the respiratory system based on either the measured (or potential for) high concentration of atmospheric vapors, gases, or particulates; or the site operations and work functions involve a high potential for splash, immersion, or exposure to unexpected vapors, gases, or particulates of materials that are harmful to skin or capable of being absorbed through the intact skin;
2. Substances with a high degree of hazard to the skin are known or suspected to be present, and skin contact is possible; or
3. Operations must be conducted in confined, poorly ventilated areas, and the absence of conditions requiring Level A have not yet been determined.

II. Level B protection should be used when:

1. The type and atmospheric concentration of substances have been identified and require a high level of respiratory protection, but less skin protection;

Note.—This involves atmospheres with IDLH concentrations of specific substances that do not represent a severe skin hazard; or that do not meet the criteria for use of air-purifying respirators.

2. The atmosphere contains less than 19.5 percent oxygen; or
3. The presence of incompletely identified vapors or gases is indicated by a direct-reading organic vapor detection instrument, but vapors and gases are not suspected of containing high levels of chemicals harmful to skin or capable of being absorbed through the intact skin.

III. Level C protection should be used when:

1. The atmospheric contaminants, liquid splashes, or other direct contact will not adversely affect or be absorbed through any exposed skin;
2. The types of air contaminants have been identified, concentrations measured, and an air-purifying respirator is available that can remove the contaminants; and
3. All criteria for the use of air-purifying respirators are met.

IV. Level D protection should be used when:

1. The atmosphere contains no known hazard; and
2. Work functions preclude splashes, immersion, or the potential for unexpected inhalation of or contact with hazardous levels of any chemicals.

Note.—As stated before, combinations of personal protective equipment other than those described for Levels A, B, C, and D protection may be more appropriate and may be used to provide the proper level of protection.

Appendix C—Compliance Guidelines

1. *Occupational Safety and Health Program.* Each hazardous waste site clean-up effort will require an occupational safety and health program headed by the site

* Optional, as applicable.

coordinator or the employer's representative. The program will be designed for the protection of employees at the site. The purpose of the program will need to be developed before work begins on the site and implemented as work proceeds. The program is to facilitate coordination and communication among personnel responsible for the various activities which will take place at the site. It will provide the overall means for planning and implementing the needed safety and health training and job orientation of employees who will be working at the site. The program will provide the means for identifying and controlling worksite hazards and the means for monitoring program effectiveness. The program will need to cover the responsibilities and authority of the site coordinator or the employer's manager on the site for the safety and health of employees at the site, and the relationships with contractors or support services as to what each employer's safety and health responsibilities are for their employees on the site. Each contractor on the site needs to have its own safety and health program so structured that it will smoothly interface with the program of the site coordinator.

Also those employers involved with treating, storing or disposal of hazardous waste as covered in paragraph (o) must have implemented a safety and health plan for their employees. This program is to include the hazard communication program required in paragraph (o)(1) and the training required in paragraph (o)(5) as parts of the employers comprehensive overall safety and health program. This program is to be in writing.

Each site or workplace safety and health program will need to include the following: (1) Policy statements of the line of authority and accountability for implementing the program, the objectives of the program and the role of the site safety and health supervisor or manager and staff; (2) means or methods for the development of procedures for identifying and controlling workplace hazards at the site; (3) means or methods for the development and communication to employees of the various plans, work rules, standard operating procedures and practices that pertain to individual employees and supervisors; (4) means for the training of supervisors and employees to develop the needed skills and knowledge to perform their work in a safe and healthful manner; (5) means to anticipate and prepare for emergency situations and; (6) means for obtaining information feedback to aid in evaluating the program and for improving the effectiveness of the program. The management and employees should be trying continually to improve the effectiveness of the program thereby enhancing the protection being afforded those working on the site.

Accidents on the site or workplace should be investigated to provide information on how such occurrences can be avoided in the future. When injuries or illnesses occur on the site or workplace, they will need to be investigated to determine what needs to be done to prevent this incident from occurring again. Such information will need to be used as feedback on the effectiveness of the program and the information turned into positive steps to prevent any reoccurrence. Receipt of employee suggestions or complaints relating to safety and health issues involved with site or workplace activities is also a feedback mechanism that can be used effectively to improve the program and may serve in part as an evaluative tool(s).

2. *Training.* The employer is encouraged to utilize those training programs that have been recognized by the National Institute of Environmental Health Sciences through its training grants program. These training and educational programs are being developed for employees who work directly with hazardous substances. For further information about these programs contact: National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709.

The training programs for employees subject to the requirements of paragraph (e) of this standard are expected to address: the safety and health hazards employees should expect to find on sites; what control measures or techniques are effective for those hazards; what monitoring procedures are effective in characterizing exposure levels; what makes an effective employer's safety and health program; what a site safety and health plan should include; and, employee's responsibilities under OSHA and other regulations. Supervisors will need training in their responsibilities under the safety and health program and its subject areas such as the spill containment program, the personal protective equipment program, the medical surveillance program, the emergency response plan and other areas.

Training programs for emergency service organizations are available from the U.S. National Fire Academy, Emmitsburg, MD and the various state fire training schools. The International Society of Fire Service Instructors, Ashland, MA is another resource.

The training programs for employees covered by the requirements of paragraph (l)(3) of this standard are expected to address: the need for and use of personal protective equipment including respirators; the decontamination procedures to be used; preplanning activities for hazardous substance incidents including the emergency response plan; company standard operating procedures for hazardous substance emergency responses; the use of the incident command system and other subjects. Hands-on training should be stressed whenever possible. Critiques done after an incident which include any evaluation of what worked and what did not and how can we do better the next time may be counted as training time.

For hazardous materials teams, the training will need to address the care, use and/or testing of chemical protective clothing including totally encapsulating suits, the medical surveillance program, the standard operating procedures for the use of plugging and patching equipment and other subject areas.

Officers and leaders who may be expected to be in charge at an incident will need to be fully knowledgeable of their company's incident command system. They will need to know where and how to obtain additional assistance and be familiar with the local district's emergency response plan.

Technical experts or medical experts or environmental experts that work with hazardous materials in their regular jobs, who may be sent to the incident scene by the shipper, manufacturer or governmental agency to advise and assist the person in charge of the incident need not have monthly training sessions, however, they will be required to have the 24 hours of training on an annual basis. Their training must include the care and use of personal protective equipment including respirators; knowledge of the incident command system; and those areas needed to keep them current in their respective field as it relates to safety and health involving specific hazardous substances.

Those employees who work for public works departments or special equipment operators who operate bulldozers, sand trucks, backhoes, etc., who may be called to the incident scene to provide emergency support assistance, will need at least a safety and health briefing before entering the area of potential or actual exposure. These specially skilled persons, who have not been a part of the emergency plan and do not meet the required training hours, must be made aware of the hazards they face and be provided all necessary protective clothing and equipment required for their tasks. If respirators are to be worn, the specially skilled person shall be trained in accordance with § 1910.134 before proceeding into the hazardous area to do their assigned job.

3. *Decontamination.* Decontamination procedures should be tailored to the specific hazards of the site, and will vary in complexity and number of steps, depending on the level of hazard and the employee's exposure to the hazard. Decontamination procedures and PPE decontamination methods will vary depending upon the specific substance, since one procedure or method will not work for all substances. Evaluation of decontamination methods and procedures should be performed, as necessary, to assure that employees are not exposed to hazards by re-using PPE. References in Appendix D may be used for guidance in establishing an effective decontamination program.

4. *Emergency response plans.* States, along with designated districts within the states, will be developing or have developed emergency response plans. These state and district plans are to be utilized in the emergency response plans called for in this standard. Each employer needs to assure that its emergency response plan is compatible with the local plan. In addition, the Chemical Manufacturers' Association (CMA) is another helpful resource in formulating an effective emergency response plan. Also the current Emergency Response Guidebook from the U.S. Department of Transportation, CMA's CHEMTREC and the Fire Service Emergency Management Handbook should be used as resources.

Appendix D—References

The following references may be consulted for further information on the subject of this notice:

1. OSHA Instruction DFO CPL 2.70—January 29, 1986, *Special Emphasis Program: Hazardous Waste Sites.*

2. OSHA Instruction DFO CPL 2-2.37A—January 29, 1986, *Technical Assistance and Guidelines for Superfund and Other Hazardous Waste Site Activities.*

3. OSHA Instruction DTS CPL 2.74—January 29, 1986, *Hazardous Waste Activity Form, OSHA 175.*

4. *Hazardous Waste Inspections Reference Manual,* U.S. Department of Labor, Occupational Safety and Health Administration, 1986.

5. Memorandum of Understanding Among the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, the United States Coast Guard, and the United States Environmental Protection Agency, *Guidance for Worker Protection During Hazardous Waste Site Investigations and Clean-up and Hazardous Substance Emergencies.* December 18, 1980.

6. *National Priorities List,* 1st Edition, October 1984; U.S. Environmental Protection Agency, Revised periodically.

7. *The Decontamination of Response Personnel,* Field Standard Operating Procedures (F.S.O.P.) 7; U.S. Environmental Protection Agency, Office of Emergency and Remedial Response, Hazardous Response Support Division, December 1984.

8. *Preparation of a Site Safety Plan,* Field Standard Operating Procedures (F.S.O.P.) 9; U.S. Environmental Protection Agency, Office of Emergency and Remedial Response, Hazardous Response Support Division, April 1985.

9. *Standard Operating Safety Guidelines;* U.S. Environmental Protection Agency, Office of Emergency and Remedial Response, Hazardous Response Support Division, Environmental Response Team; November 1984.

10. *Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities,* National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), U.S. Coast Guard (USCG), and Environmental Protection Agency (EPA); October 1985.

11. *Protecting Health and Safety at Hazardous Waste Sites: An Overview,* U.S. Environmental Protection Agency, EPA/625/9-85/006; September 1985.

12. *Hazardous Waste Sites and Hazardous Substance Emergencies,* NIOSH Worker Bulletin, U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health; December 1982.

13. *Personal Protective Equipment for Hazardous Materials Incidents: A Selection Guide;* U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health; October 1984.

14. *Fire Service Emergency Management Handbook,* International Association of Fire Chiefs Foundation, 101 East Holly Avenue, Unit 10B, Sterling, VA 22170, January 1985.

15. *Emergency Response Guidebook,* U.S. Department of Transportation, Washington, DC, 1983.

16. *Report to the Congress on Hazardous Materials Training, Planning and Preparedness,* Federal Emergency Management Agency, Washington, DC, July 1986.

17. *Workbook for Fire Command,* Alan V. Brunacini and J. David Beageron, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, 1985.

18. *Fire Command,* Alan V. Brunacini, National Fire Protection, Batterymarch Park, Quincy, MA 02269, 1985.

19. *Incident Command System,* Fire Protection Publications, Oklahoma State University, Stillwater, OK 74078, 1983.

20. *Site Emergency Response Planning,* Chemical Manufacturers Association, Washington, DC 20037, 1986.

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10 Parts:		
0-199	29.00	Jan. 1, 1987
200-399	13.00	Jan. 1, 1987
400-499	14.00	Jan. 1, 1987
500-End	24.00	Jan. 1, 1987
11	7.00	Jan. 1, 1986
12 Parts:		
1-199	11.00	Jan. 1, 1987
200-299	27.00	Jan. 1, 1987
300-499	13.00	Jan. 1, 1987
500-End	27.00	Jan. 1, 1987
13	19.00	Jan. 1, 1987
14 Parts:		
1-59	21.00	Jan. 1, 1987
60-139	19.00	Jan. 1, 1987
140-199	9.50	Jan. 1, 1987
200-1199	19.00	Jan. 1, 1987
1200-End	11.00	Jan. 1, 1987
15 Parts:		
0-299	10.00	Jan. 1, 1987
300-399	20.00	Jan. 1, 1987
400-End	14.00	Jan. 1, 1987

Title	Price	Revision Date
16 Parts:		
0-149	12.00	Jan. 1, 1987
150-999	13.00	Jan. 1, 1987
1000-End	19.00	Jan. 1, 1987
17 Parts:		
1-199	14.00	Apr. 1, 1987
200-239	14.00	Apr. 1, 1987
240-End	19.00	Apr. 1, 1987
18 Parts:		
1-149	15.00	Apr. 1, 1987
150-279	14.00	Apr. 1, 1987
280-399	13.00	Apr. 1, 1987
400-End	8.50	Apr. 1, 1987
19 Parts:		
1-199	27.00	Apr. 1, 1987
200-End	5.50	Apr. 1, 1987
20 Parts:		
1-399	12.00	Apr. 1, 1987
400-499	23.00	Apr. 1, 1987
500-End	24.00	Apr. 1, 1987
21 Parts:		
1-99	12.00	Apr. 1, 1987
100-169	14.00	Apr. 1, 1987
170-199	16.00	Apr. 1, 1987
200-299	5.50	Apr. 1, 1987
300-499	26.00	Apr. 1, 1987
500-599	21.00	Apr. 1, 1987
600-799	7.00	Apr. 1, 1987
800-1299	13.00	Apr. 1, 1987
1300-End	6.00	Apr. 1, 1987
22 Parts:		
1-299	19.00	Apr. 1, 1987
300-End	13.00	Apr. 1, 1987
23	16.00	Apr. 1, 1987
24 Parts:		
0-199	14.00	Apr. 1, 1987
200-499	26.00	Apr. 1, 1987
500-699	9.00	Apr. 1, 1987
700-1699	18.00	Apr. 1, 1987
1700-End	12.00	Apr. 1, 1987
25	24.00	Apr. 1, 1987
26 Parts:		
§§ 1.0-1.60	12.00	Apr. 1, 1987
§§ 1.61-1.169	22.00	Apr. 1, 1987
§§ 1.170-1.300	17.00	Apr. 1, 1987
§§ 1.301-1.400	14.00	Apr. 1, 1987
§§ 1.401-1.500	21.00	Apr. 1, 1987
§§ 1.501-1.640	15.00	Apr. 1, 1987
§§ 1.641-1.850	17.00	Apr. 1, 1987
§§ 1.851-1.1200	29.00	Apr. 1, 1986
§§ 1.1001-1.1400	16.00	Apr. 1, 1987
§§ 1.1201-End	29.00	Apr. 1, 1986
2-29	20.00	Apr. 1, 1987
30-39	13.00	Apr. 1, 1987
40-49	12.00	Apr. 1, 1987
50-299	14.00	Apr. 1, 1987
300-499	15.00	Apr. 1, 1987
500-599	8.00	[2] Apr. 1, 1980
600-End	6.00	Apr. 1, 1987
27 Parts:		
1-199	21.00	Apr. 1, 1987
200-End	13.00	Apr. 1, 1987
28	21.00	July 1, 1986
29 Parts:		
0-99	16.00	July 1, 1986
100-499	7.00	July 1, 1986
500-899	24.00	July 1, 1986
900-1899	9.00	July 1, 1986
1900-1910	27.00	July 1, 1986
1911-1919	5.50	[3] July 1, 1984

Title	Price	Revision Date
1920–End	29.00	July 1, 1986
30 Parts:		
0–199	16.00	[4] July 1, 1985
200–699	8.50	July 1, 1986
700–End	17.00	July 1, 1986
31 Parts:		
0–199	11.00	July 1, 1986
200–End	16.00	July 1, 1986
32 Parts:		
1–39, Vol. I	15.00	[5] July 1, 1984
1–39, Vol. II	19.00	[5] July 1, 1984
1–39, Vol. III	18.00	[5] July 1, 1984
1–189	17.00	July 1, 1986
190–399	23.00	July 1, 1986
400–629	21.00	July 1, 1986
630–699	13.00	July 1, 1986
700–799	15.00	July 1, 1986
800–End	16.00	July 1, 1986
33 Parts:		
1–199	27.00	July 1, 1986
200–End	18.00	July 1, 1986
34 Parts:		
1–299	20.00	July 1, 1986
300–399	11.00	July 1, 1986
400–End	25.00	July 1, 1986
35	9.50	July 1, 1986
36 Parts:		
1–199	12.00	July 1, 1986
200–End	19.00	July 1, 1986
37	12.00	July 1, 1986
38 Parts:		
0–17	21.00	July 1, 1986
18–End	15.00	July 1, 1986
39	12.00	July 1, 1986
40 Parts:		
1–51	21.00	July 1, 1986
52	27.00	July 1, 1986
53–60	23.00	July 1, 1986
61–80	10.00	July 1, 1986
81–99	25.00	July 1, 1986
100–149	23.00	July 1, 1986
150–189	21.00	July 1, 1986
190–399	27.00	July 1, 1986
400–424	22.00	July 1, 1986
425–699	24.00	July 1, 1986
700–End	24.00	July 1, 1986
41 Chapters:		
1, 1–1 to 1–10	13.00	[6] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[6] July 1, 1984
3–6	14.00	[6] July 1, 1984
7	6.00	[6] July 1, 1984
8	4.50	[6] July 1, 1984
9	13.00	[6] July 1, 1984
10–17	9.50	[6] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[6] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[6] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[6] July 1, 1984
19–100	13.00	[6] July 1, 1984
1–100	9.50	July 1, 1986
101	23.00	July 1, 1986
102–200	12.00	July 1, 1986
201–End	7.50	July 1, 1986
42 Parts:		
1–60	15.00	Oct. 1, 1986
61–399	10.00	Oct. 1, 1986
400–429	20.00	Oct. 1, 1986
430–End	15.00	Oct. 1, 1986

Title	Price	Revision Date
43 Parts:		
1–999	14.00	Oct. 1, 1986
1000–3999	24.00	Oct. 1, 1986
4000–End	11.00	Oct. 1, 1986
44	17.00	Oct. 1, 1986
45 Parts:		
1–199	13.00	Oct. 1, 1986
200–499	9.00	Oct. 1, 1986
500–1199	18.00	Oct. 1, 1986
1200–End	13.00	Oct. 1, 1986
46 Parts:		
1–40	13.00	Oct. 1, 1986
41–69	13.00	Oct. 1, 1986
70–89	7.00	Oct. 1, 1986
90–139	11.00	Oct. 1, 1986
140–155	8.50	[7] Oct. 1, 1985
156–165	14.00	Oct. 1, 1986
166–199	13.00	Oct. 1, 1986
200–499	19.00	Oct. 1, 1986
500–End	9.50	Oct. 1, 1986
47 Parts:		
0–19	17.00	Oct. 1, 1986
20–39	18.00	Oct. 1, 1986
40–69	11.00	Oct. 1, 1986
70–79	17.00	Oct. 1, 1986
80–End	20.00	Oct. 1, 1986
48 Chapters:		
1 (Parts 1–51)	21.00	Oct. 1, 1986
1 (Parts 52–99)	16.00	Oct. 1, 1986
2	27.00	Dec. 31, 1986
3–6	17.00	Oct. 1, 1986
7–14	23.00	Oct. 1, 1986
15–End	22.00	Oct. 1, 1986
49 Parts:		
1–99	10.00	Oct. 1, 1986
100–177	24.00	Oct. 1, 1986
178–199	19.00	Oct. 1, 1986
200–399	17.00	Oct. 1, 1986
400–999	21.00	Oct. 1, 1986
1000–1199	17.00	Oct. 1, 1986
1200–End	17.00	Oct. 1, 1986
50 Parts:		
1–199	15.00	Oct. 1, 1986
200–End	25.00	Oct. 1, 1986
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] 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.

[6] 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.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.