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federal register

Thursday
September 20, 1984

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Anchorage Grounds
Coast Guard

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Federal Energy Regulatory Commission

Aviation Safety
Federal Aviation Administration

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Commodity Futures
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Endangered and Threatened Species
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Government Procurement
United States Information Agency

Income Taxes
Internal Revenue Service

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Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Memorandum of September 18, 1984

Steel Import Relief Determination

Memorandum for the United States Trade Representative

Pursuant to Section 202(b)(1) of the Trade Act of 1974, (P.L. 93–618, 88 Stat. 1978), I have determined the actions I will take with respect to the report of the United States International Trade Commission (USITC) dated July 24, 1984 concerning carbon and alloy steel.

I have determined today under Section 203 of the Trade Act that import relief is not in the national economic interest for the following reasons:

1. In responding to this pressing import problem, we must do all we can to avoid protectionism, to keep our market open to free and fair competition, and to provide certainty of access for our trading partners. This Administration has repeatedly, and most recently at the London Economic Summit, committed itself to "resist continuing protectionist pressures, to reduce barriers to trade, and to make renewed efforts to liberalize and expand trade in manufactures, commodities and services."

2. It is not in the national economic interest to take actions which put at risk thousands of jobs in steel fabricating and other consuming industries or in the other sectors of the U.S. economy that might be affected by compensation or retaliation measures to which our trading partners would be entitled.

3. This Administration has already taken many steps to deal with the steel import problem. In 1982, a comprehensive arrangement restraining steel imports from the European Community was negotiated. This Administration has also conducted an unprecedented number of antidumping and countervailing duty investigations of steel imports, in most cases resulting in the imposition of duties or a negotiated settlement. In addition, the governments of Mexico and South Africa have unilaterally imposed voluntary restraint on exports, leading to the termination of unfair trade complaints.

However, I have decided to establish a government policy for the steel industry. I believe that this new policy is the best way to respond to the legitimate concerns of the domestic industry while maintaining access to our market for those who trade fairly.

I am directing you to coordinate and direct the implementation of this policy for the U.S. steel industry which includes the following elements:

1. The United States Trade Representative (USTR) will negotiate "surge control" arrangements or understandings and, where appropriate, suspension agreements with countries whose exports to the United States have increased significantly in recent years due to an unfair surge in imports—unfair because of dumping subsidization, or diversion from other importing countries who have restricted access to their markets. The USTR will negotiate additional such arrangements and understandings, if necessary, to control new surges of imports that result from subsidizing, dumping or other unfair or restrictive trade practices during the next five years. If agreements cannot be reached to control new surges from countries that are guilty of unfair practices, the President will use his authority under the unfair trade laws including Section 301 of the Trade Act of 1974 to assure that these countries do not maintain unrestricted access to the United States market.

2. The United States Trade Representative will reaffirm existing measures with countries that have voluntarily restrained their exports to our market, and will take necessary steps to ensure the effectiveness of these measures. Specifically the Administration will support legislation in the Congress to make enforceable at our borders all voluntary agreements and "surge control" arrangements.

3. The United States Trade Representative will consult with our trading partners to seek the elimination of trade distortive and trade restraining practices in other markets to lead to the liberalization of steel trade around the world.

4. The Department of Commerce will continue to rigorously enforce our unfair trade laws. Further, the Department of Commerce and the United States Trade Representative will self-initiate unfair trade cases including antidumping, countervailing duty and Section 301 actions when appropriate.

5. The United States International Trade Commission will be asked to monitor the efforts of the steel industry to adjust and modernize, and to prepare an annual report for the President on those efforts.

6. The Secretary of Commerce will establish an interagency group to analyze all U.S. government domestic tax, regulatory and antitrust laws and policies which could hinder the ability of the steel industry to modernize.

7. The Secretary of Defense and the Federal Emergency Management Agency will analyze domestic steel plate rolling capacity in relationship to emergency needs, and to recommend to the President appropriate actions if deficiencies are found to exist.

8. The Secretary of Labor will work with state and local governments to develop a program to assist workers in communities adversely affected by steel imports.

9. The United States Trade Representative will closely monitor the trade elements of this program and the resultant import trends and report them to the President on a quarterly basis.

The Administration's hope is that this combination of actions, taken without protectionist intention or effect would enable one of the United States' most basic and vital industries to return to a level playing field, one in which steel is traded on the basis of market forces, not government intervention, and one in which the market would seek a return to a more normal level of steel imports, or approximately 18.5 percent, excluding semi-finished steel.

This determination is to be published in the Federal Register.

Ronald Reagan

THE WHITE HOUSE,
Washington, September 18, 1984.

[FR Doc. 84-25181
Filed 9-18-84; 4:40 pm]
Billing code 3195-01-M

Editorial note: The text of identical letters, dated Sept. 18, 1984, to the Speaker of the House of Representatives and the President of the Senate on the import relief determination is printed in the *Weekly Compilation of Presidential Documents* (vol. 20, no. 38).

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-343]

Corn Cyst Nematode; Affirmation of Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms without change an interim rule which was published in the Federal Register on May 1, 1984, and which amended the domestic quarantine notices by adding a new subpart, captioned "Corn Cyst Nematode". This action is necessary to prevent the artificial spread interstate of corn cyst nematode, *Heterodera zeae*, a dangerous plant pest.

EFFECTIVE DATE: September 20, 1984.

FOR FURTHER INFORMATION CONTACT: E. Elliott Crooks, Senior Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8249.

SUPPLEMENTARY INFORMATION:

Background

Corn cyst nematode, *Heterodera zeae*, is a cyst-forming nematode that attacks the roots of host plants such as corn, barley, oats and sorghum. The nematode bores into the roots of the plants and feeds on the juices resulting in poor root development and poor plant growth. If allowed to become established in the United States it could cause severe crop losses. The corn cyst nematode is spread artificially through the movement of infested soil and equipment carrying infested soil.

Corn cyst nematode was recently discovered in several counties in the State of Maryland and on May 1, 1984, the U.S. Department of Agriculture (USDA) published in the Federal Register (49 FR 18463-18468) a document which added a new Subpart 301.90, captioned "Corn Cyst Nematode", to the domestic quarantine notices (7 CFR 301). This subpart quarantined the State of Maryland for corn cyst nematode, designated certain areas in Maryland as "regulated areas", designated certain articles as "regulated articles", and established regulations governing the interstate movement of regulated articles from regulated areas.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread interstate of corn cyst nematode, a dangerous plant pest.

Comments were solicited for 60 days after publication of the amendment. One written comment in support of the interim rule was received during this comment period. Further, the factual situations which were set forth in the document of May 1, 1984, still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

The 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, it has been determined that this rule will have an effect on the economy of less than 100,000 dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Mr. Bert W. Hawkins, 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. This amendment only affects the interstate movement of regulated articles from a portion of Cecil, Harford, Kent, and Queen Annes Counties in Maryland. Further, based on information from the Maryland Department of Agriculture and the USDA Extension Service, it appears that fewer than 30 entities move regulated articles interstate from the regulated areas. This compares with approximately 200 small entities that move regulated articles interstate from other parts of Maryland, and with several hundred small entities that move such articles interstate from nonregulated areas in other States.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Corn cyst nematode, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the interim rule published at 49 FR 18463-18468 on May 1, 1984, is adopted as a final rule.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sections 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2(c).

Done at Washington, D.C., this 14th day of September 1984.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-24320 Filed 9-13-84; 8:45 am]
BILLING CODE 3410-34-M

7 CFR Part 301

[Docket No. 84-342]

European Larch Canker; Expansion of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends "Subpart—European Larch Canker" of the domestic quarantine notices by expanding previously designated

regulated areas in Hancock and Washington Counties in Maine, and by designating previously nonregulated areas of Knox, Lincoln, and Waldo Counties in Maine as regulated areas. This action is necessary as an emergency measure in order to prevent the artificial spread of European larch canker, a dangerous plant disease, into noninfested areas of the United States. The effect of this amendment is to impose certain restrictions on regulated articles moving interstate from the regulated areas.

DATES: Effective date of amendment September 20, 1984. Written comments concerning this final rule must be received on or before November 19, 1984.

ADDRESS: Written comments concerning this rulemaking should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected in Room 728 of the Federal Building between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: E. Elliott Crooks, Senior Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8249.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. This action is necessary to prevent the artificial spread interstate of European larch canker, *Lachnellula willkommii* (Dasycypha).

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the Federal Register. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the Federal Register as soon as possible.

Background

European larch canker, *Lachnellula willkommii* (Dasycypha), is a serious plant disease caused by a fungus that can kill mature and immature species of the genus *Larix* (Larch) and *Pseudolarix* (Golden larch). In parts of Europe, it has eliminated European larch as a plantation species. Eurpoean larch canker was first discovered in the United States in Massachusetts in 1927. It was declared eradicated in 1965 after cutting and burning larch in the infested area over a period of several years. The disease is spread naturally for short distances by wind dispersed spores. There is a potential threat to several million acres of Western larch in the United States due to the artificial spread associated with the interstate movement of regulated articles.

Infestations of European larch canker were recently been discovered for the first time in Hancock and Washington Counties in Maine. Based on these findings, an emergency rulemaking document, effective upon publication, was published in the Federal Register on May 4, 1984 (49 FR 18989-18995). This document amended the domestic quarantine notices (7 CFR Part 301) by adding a new subpart, captioned "European Larch Canker" (7 CFR 301.91 *et seq.;* referred to below as regulations) which, among other things, designated a portion of Hancock and Washington Counties as regulated areas in § 301.91-3(c).

The portion of Hancock and Washington Counties designated as a regulated area by the May 4, 1984 rulemaking document remains infested at this time. However, surveys and field observations conducted by the U.S. Department of Agriculture (USDA) and the Maine Forest Service indicate that European larch canker has spread beyond the outer perimeter of the regulated area in Hancock and Washington Counties and into areas of Knox, Lincoln, and Waldo Counties in Maine. Therefore, in order to prevent further spread of the European larch canker it is necessary as an emergency measure to amend § 301.91-3 of the regulations by expanding the portion of Hancock and Washington Counties previously designated as regulated areas, and designating portions of previously nonregulated areas of Knox, Lincoln, and Waldo Counties in Maine as regulated areas.

Designation of Areas as Regulated Areas

As an emergency, certain European larch canker regulated areas in Hancock and Washington Counties in Maine are expanded as set forth below:

The European larch canker regulated area in Hancock County, Maine, previously described as "The entire townships of Gouldsboro, Sullivan, Winter Harbor, 7th Southern Division, 9th Southern Division, 10th Southern Division, and 16th Middle Division.", is expanded and redescribed as "The entire townships of Gouldsboro, Serrento, Sullivan, Winter Harbor, 7th Southern Division, 9th Southern Division, 10th Southern Division, and 16th Middle Division."

The European larch canker regulated area in Washington County, Maine, previously described as "The entire townships of Addison, Beals, Centerville, Charolotte, Cherryfield, Columbia, Columbia Falls, Cutler, Debolis, Dennysville, East Machias, Eastport, Edmunds, Harrington, Jonesboro, Jonesport, Lubec, Machias, Machiasport, Marion, Marshfield, Milbridge, Northfield, Plantation 14, Pembroke, Perry, Robbinston, Roque Bluffs, Steuben, Trescott, Whiting, Whitneyville, 18th Eastern Division, 18th Middle Division, and 19th Middle Division.", is expanded and redescribed as "The entire townships of Addison, Baring, Beals, Calais City, Centerville, Charolotte, Cherryfield, Columbia, Columbia Falls, Cooper, Cutler, Debolis, Dennysville, East Machias, Eastport, Edmunds, Harrington, Jonesboro, Jonesport, Lubec, Machias, Machiasport, Marion, Marshfield, Meddybemps, Milbridge, Northfield, Plantation 14, Pembroke, Perry, Robbinston, Roque Bluffs, Steuben, Trescott, Whiting, Whitneyville, 18th Eastern Division, 18th Middle Division, and 19th Middle Division."

Also, as an emergency measure, the following areas in Maine, which were previously nonregulated areas, are designated as European larch canker regulated areas:

Knox County. The entire townships of Appleton, Camden, Cushing, Friendship, Hope, Owls Head, Rockland City, Rockport, South Thomaston, St. George, Thomaston, Union, Warren, and Washington.

Lincoln County. The entire townships of Bremen, Bristol, Damariscotta, Jefferson, Nobleboro, South Bristol, Somerville, and Waldoboro.

Waldo County. The entire townships of Lincolnville and Searsmont.

An area is designated as a regulated area if it is determined that it is an area in which European larch canker has been found, or an area in which the Deputy Administrator has reason to believe European larch canker is present, or an area deemed necessary to regulate because of its proximity to infestations of European larch canker, or its inseparability for quarantine enforcement purposes from localities where European larch canker has been found.

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, it has been determined that this rule will have no significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Mr. Bert W. Hawkins, 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. This amendment only affects the interstate movement of regulated articles from portions of Hancock, Knox, Lincoln, Waldo, and Washington Counties in Maine by imposing restrictions on the movement of such articles. Further, information from the Maine Forest Service and the USDA Forest Service, indicates that the items designated as regulated articles (namely, logs, pulpwood, branches, twigs, plants, scion and other propagative material from larch trees) have little commercial value, and there is very little interstate movement of these regulated articles for commercial purposes or otherwise.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirement under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, European larch canker, Plant diseases, Plants (agriculture), Quarantine, Transportation.

PART 301—[AMENDED]

Accordingly, § 301.91 of the European larch canker quarantine and regulations (7 CFR 301.91-3(c)) revises the list of regulated areas in Maine to read as follows:

§ 301.91-3 Regulated areas.

* * * * *

(c) The areas described below are designated as regulated areas: *Maine*

Hancock County. The entire townships of Gouldsboro, Serrento, Sullivan, Winter Harbor, 7th Southern Division, 9th Southern Division, 10th Southern Division, and 16th Middle Division.

Knox County. The entire townships of Appleton, Camden, Cushing, Friendship, Hope, Owls Head, Rockland City, Rockport, South Thomaston, St. George, Thomaston, Union, Warren, and Washington.

Lincoln County. The entire townships of Bremen, Bristol, Damariscotta, Jefferson, Nobleboro, South Bristol, Somerville, and Waldoboro.

Waldo County. The entire townships of Lincolnville and Searsmont.

Washington County. The entire townships of Addison, Baring, Beals, Calais City, Centerville, Charolotte, Cherryfield, Columbia, Columbia Falls, Cooper, Cutler, Debolis, Dennysville, East Machias, Eastport, Edmunds, Harrington, Jonesboro, Jonesport, Lubec, Machias, Machiasport, Marion, Marshfield, Meddybemps, Milbridge, Northfield, Plantation 14, Pembroke, Perry, Robbinston, Roque Bluffs, Steuben, Trescott, Whiting, Whitneyville, 18th Eastern Division, 18th Middle Division, and 19th Middle Division.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, and 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2(c).

Done at Washington, D.C., this 14th day of September 1984.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-24830 Filed 9-19-84; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 327 and 381

[Docket No. 83-019F]

Import Inspection System

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On April 16, 1984, USDA published a proposal to update the Federal meat and poultry products inspection regulations to reflect the use of an automated system developed in recent years that supports the inspection of imported meat and poultry products. It uses a centralized data source and has been programmed to support the application of statistically based random sampling techniques in imported product inspection, using factors such as a foreign plant's compliance history and the nature and volume of product shipped from a foreign plant to determine sampling intensity. USDA received no comments on its proposal and has determined that the proposal should be made a final rule.

EFFECTIVE DATE: October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Grace M. Clark, Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7610.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a "major" rule under Executive Order 12291. The rule amends the regulations to better reflect the Agency's current practice of using statistically sound sampling plans (already generally authorized in 9 CFR 318.2(c)) to make more efficient and effective use of inspectors performing import inspection.

The computerized system currently used by USDA permits ports of entry and circuits to share imported product information readily and to concentrate inspection resources in areas of greatest risk. Under the system formerly used to inspect imported product, each port of entry and circuit acted independently, which increased the probability of unnecessary duplicative inspection and delayed action against foreign establishments failing to meet U.S. standards.

This final rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or 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.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601).

The automated support system for the inspection of imported meat and poultry products has been in use since January 1979, so the principal effect of this final rule will be to make inspection regulations for imported products compatible with current practice.

Background

On April 16, 1984, USDA published in the Federal Register (49 FR 14963) a proposed rule to update the Federal meat and poultry products inspection regulations to reflect the use of an automated inspection system developed in recent years that supports the inspection of imported meat and poultry products.

The Food Safety and Inspection Service (FSIS) is responsible for, among other things, ensuring the wholesomeness and appropriate labeling of imported meat and poultry products prepared in foreign countries eligible to export to the United States. Port-of-Entry (POE) inspection in the United States by USDA is actually reinspection of product previously inspected in the country of origin and serves as a means for assuring that the foreign country's system of inspection continues to produce product that meets the same standards "at least equal to" those applied to product produced by inspected establishments in the United States.

In 1978, the Automated Import Inspection System (AIIS) was developed. Since its institution in 1979, it has provided a data base which has allowed POE's to share information on inspection results for all imported meat and poultry product. The AIIS also prescribes statistically valid sampling plans, based on plants' performance records and the nature and volume of the product shipped from foreign plants. In addition, the AIIS keeps track of imported product at all locations. If a problem is found in product at one port, the system permits rapid location of shipments from the plant involved at other ports.

On June 15, 1983, the Comptroller General issued a report to the Congress of the United States on the need for improved management of the import meat inspection system. He expressed the opinion that Part 327 of the Federal meat inspection regulations (9 CFR Part 327) should refer to the use of variable sampling rate inspection, even though authority for statistical sampling has been established (9 CFR 318.2(c)). The Administrator of FSIS determined that in addition to that amendment, other provisions of Part 327 needed to be changed since they incorrectly indicate that all lots of various products, such as imported boneless manufacturing meat, are sampled. In addition, it was determined that, although the present text of the import provisions of the poultry products inspection regulations would appear to permit the use of the AIIS, including variable sampling rate inspection, § 381.199(a) of the poultry products inspection regulations (9 CFR 381.199(a)) should be modified to identify the automated system and to assure parallelism between the Federal meat inspection regulations and the poultry products inspection regulations in this area. A provision presently in the poultry products inspection regulations requiring small lots to be moved to the location of the nearest inspector for inspection purposes has no comparable provision in the Federal meat inspection regulations and is being deleted.

Comments on the Proposed Rule

FSIS did not receive any comments in response to the proposed rule.

Final Rule

After careful consideration of all relevant information available to FSIS, the Administrator has determined that the proposed rule should be published as a final regulation as set forth below.

List of Subjects in 9 CFR Parts 327 and 381

Automated Import Inspection System (AIIS), Imported products, Inspection procedures, and Meat inspection.

PART 327—IMPORTED PRODUCTS

1. The authority citation for Part 327 reads as follows:

Authority.—34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 327.6 (9 CFR 327.6) is amended by redesignating paragraph (a) as (a)(1); adding paragraphs (a) (2), (3) and (4); and revising paragraphs (i) and (j) to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

(a)(1) * * *

(2) Every lot of product shall routinely be given visual inspection by an inspector for appearance and condition, and checked for certification and label compliance.

(3) The computerized Automated Import Information System (AIIS) shall be consulted for further inspection instructions. The AIIS will assign inspection levels and procedures based on established sampling plans and established product and plant history.

(4) When the inspector deems it necessary, the inspector may sample and inspect lots not designated by AIIS.

* * * * *

(i) A sampling inspection shall be made, as provided in paragraph (a) of this section, of foreign chilled fresh or frozen fresh meat, including defrosting if necessary to determine its condition. Inspection standards for foreign chilled fresh or frozen fresh meat shall be the same as those used for domestic chilled fresh or frozen fresh meat. (See § 327.21)

(j) Foreign canned products are required to be sound, healthful, wholesome, and otherwise not adulterated at the time they are offered for importation into the United States, *Provided,* That other requirements of this Part are met, the determination of the acceptability of the product and the condition of the containers shall be based on the results of an examination of a statistical sample drawn from a lot as provided in paragraph (a) of this section. If the inspector determines, on the basis of sample examination, that the product does not meet the requirements of the Act and regualtions thereunder, the lot shall be refused entry. However, a lot rejected for container defects but otherwise acceptable may be reoffered for inspection under the following conditions:

(1) If the number and kinds of container defects found in the original sample do not exceed limits specified for this purpose in USDA guidelines; and

(2) If the defective cans in the lot have been sorted out and reexported or destroyed under the supervision of an inspector.

* * * * *

3. Section 327.12(c) of the Federal meat inspection regulations (9 CFR 327.12(c)) is revised to read as follows:

§ 327.12 Foreign canned or packaged products bearing trade labels; sampling and inspection.

* * * * *

(c) Samples shall be taken from foreign canned products or packaged products as required by § 327.6 (a) and (j) of this part.

§ 327.21 [Amended]

4. Section 327.21(a)(2) of the Federal meat inspection regulations (9 CFR 327.21(a)(2)) is revised to read as follows:

(a) * * *

(1) * * *

(2) Imported frozen boneless manufacturing meat shall be sampled as required by § 327.6(a) of this part, and the samples defrosted for inspection. The inspector will select from a lot the appropriate number of cartons specified by the table of sampling plans contained in the current U.S. Department of Agriculture Meat and Poultry Inspection Manual.[1] The total sample for inspection will consist of the necessary number of 12-pound units drawn from these cartons. The 12-pound units selected will be completely defrosted and examined.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for Part 381 reads as follows:

Authority: Sec. 14 of the Poultry Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21(b) of the Water Pollution Control Act, as amended by Pub. L. 91-224 and by other laws (33 U.S.C. 1254).

2. Section 381.199(a) of the Federal poultry products inspection regulations (9 CFR 381.199(a)) is amended by redesignating and revising paragraph (a) as (a)(1) and adding paragraphs (a) (2), (3) and (4) to read as follows:

§ 381.199 Inspection of imported poultry products.

(a)(1) Except as provided in § 381.209 of this Part, and paragraph (c) of this section, all slaughtered poultry and poultry products offered for importation from any foreign country shall be inspected by a Program inspector before they shall be allowed entry into the United States.

(2) Every lot of product shall routinely be given visual inspection by an inspector for appearance and condition, and checked for certification and label compliance.

(3) The computerized Automated Import Information System (AIIS) shall be consulted for further inspection instructions. The AIIS will assign inspection levels and procedures based on established sampling plans and established product and establishment history.

(4) When the inspector deems it necessary, the inspector may sample and inspect lots not designated by AIIS.

* * * * *

Done at Washington, D.C., on September 4, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-24937 Filed 9-19-84; 8:45 am]

BILLING CODE 3410-DM-M

[1] Copies of such table are available, upon request, from Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-82-AD; Amdt. 39-4917]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) applicable to certain Boeing Model 747 series airplanes, which requires inspection of the trailing edge flap tracks for cracks. This action is prompted by a recent report of cracking and failure of the forward end of one trailing edge flap track. This recent service experience has shown that the fail-safe bar is ineffective at the forward end of the flap track. Accordingly, this amendment adds inspections to the forward end of the flap track. The failure of the forward end of the flap track could cause the trailing edge flap to separate from the airplane.

DATE: Effective September 27, 1984.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington; telephone (206) 431-2923. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168

SUPPLEMENTARY INFORMATION: AD 76-03-06, Amendment 39-2516 (40 FR 57811, December 12, 1975), requires repetitive inspection of the flap tracks every 2000 flights, for cracks emanating from all fastener holes in the track webs. There has been a new report of cracking and failure of the forward end of a trailing edge flap track. The cracking originated from pitting corrosion within the bore of the first and second fastener holes. The rate of crack growth indicates that additional inspections of the forward end of the flap track are needed. The fail-safe bar was ineffective since the track failed through the hole of the first fastener which attaches the fail-safe bar to the track. Although the flap did not separate from the airplane, failure of the flap track could result in separation of the flap under certain normal flight conditions. Separation of a flap from the airplane could jeopardize continued safe flight by causing either partial loss of roll control or structural damage to the stabilizer.

Since this condition is likely to exist or develop on other Boeing Model 747 airplanes of the same type design, and since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:.

Boeing: Applies to those Boeing Model 747 series airplanes certificated in all categories, listed in Boeing Alert Service Bulletin 747-57A2229 dated August 10, 1984, or later FAA approved revisions, that have the reworked and interim production flap tracks in positions Number 1 through 8. Part numbers are listed in the Service Bulletin for the affected flap tracks.

Note.—The inspections specified in this airworthiness directive (AD) are in addition to the inspections currently required by AD 83-21-02 (48 FR 48220).

To prevent failure of the trailing edge flap tracks, accomplish the following:

A. Within 100 landings after the effective date of this AD, unless already accomplished within the last 200 landings, and at intervals thereafter not to exceed 300 landings, visually

inspect for cracks the flap track lower flanges and vertical webs at the front end, adjacent to bolts number 1 through 3 in accordance with Alert Service Bulletin 747-57A2229, initial release or later FAA approved revisions. Cracked parts must be replaced prior to further flight.

Note.—These are the bolts that pass through both the flap track and the front end of the fail-safe bar. Inspection of the flap track may be performed by borescope through access holes in the flap track fairing adjacent to the front of the track. The proper location and diameter for the access holes is provided in the Service Bulletin.

B. Within the next 300 landings after the effective date of this AD, unless already accomplished within the last 1700 landings, and at intervals thereafter not to exceed 2000 landings, visually inspect the flap track webs for cracks emanating from all fastener holes not previously inspected under paragraph A., above, in accordance with Boeing Service Bulletin 747-57-2146, dated February 27, 1976, or later FAA approved revisions. Cracked parts must be replaced prior to further flights.

C. For purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the airplane type.

D. On request by the operator, an FAA Principal Maintenance Inspector, subject to prior approval by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times in this AD, if the request contains substantiating data to justify the increase for the operator.

E. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service bulletins from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents also may be examined at FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment supersedes Airworthiness Directive (AD) 76-03-06, Amendment 39-2516 (40 FR 57811; December 12, 1975).

This amendment becomes effective September 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

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

Issued in Seattle, Washington, on September 7, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-24883 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-23-AD; Amdt. 39-4918]

Airworthiness Directives: British Aerospace (BAe) Viscount Model 700 Series and 800 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires inspections, replacement, and modification of certain components on British Aerospace, Aircraft Group, Viscount airplanes, as necessary, to detect and prevent certain unsafe conditions. These conditions are the subject of mandatory corrective actions required by the United Kingdom Civil Aviation Authority (CAA) and relate to components of the hydraulic system, entry and cargo doors, and the rudder. This action is taken to preclude failure of these components.

DATE: Effective October 22, 1984.

ADDRESSES: The Preliminary Technical Leaflets specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian for Service Bulletins, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. James Leeder, Foreign Aircraft Certification Branch, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 431-2826. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a number of inspections, replacements, and modifications which they have imposed on Viscount Model 700 and 800 series airplanes operated under registry of the United Kingdom to correct certain unsafe conditions which may exist.

The requirements presented in this AD are based on the notifications from the CAA in accordance with the bilateral agreement and are related to the following unsafe conditions:

A. Loss of hydraulic system fluid due to premature failure of bolts on hydraulic system micron filter which could result in loss of brakes. (Reference: Preliminary Technical Leaflet (PTL) No. 177, Issue 1, for all Model 800 series; and PTL No. 308, Issue 1, for all Model 700 series airplanes.)

B. Possible loss of, or damage to, entrance doors and rear freight door which could result in depressurization. (Reference: BAe Modification No. D.3051, Issues 1 and 2, and PTL No. 235, Issue 3, for all Model 700 series airplanes.)

C. Possible damage to rudder mechanism due to parts remaining in service beyond their estimated life expectancy of 30,000 hours which could result in a jammed rudder. (Reference: PTL No. 311, Issue 1, for all Model 700 series; and PTL No. 180, Issue 1, for all Model 800 series airplanes.)

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring accomplishment of the previously mentioned inspections and modifications was published in the Federal Register on April 30, 1984 (49 FR 18312). The comment period closed on June 19, 1984, and interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received.

It is estimated that 29 U.S. registered airplanes will be affected by this AD, that it will take approximately 79 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated at $1,245 per airplane. Based on these figures, the total cost impact of this AD to the U.S. operators is estimated to be $127,745. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the

Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace Viscount: Applies to Model 700 and 800 series airplanes, certificated in all categories, as indicated in each paragraph below. To prevent failure of certain components in the hydraulic system, entry and cargo doors, or rudder mechanism, accomplish the following within the compliance time specified in each paragraph below, unless previously accomplished:

A. For all Model 700 series pre-Modification D.2883 and for Model 800 series pre-Modification FG.1553 which are equipped with hydraulic system Micronic Filters, Part Numbers A6301, A6302, or A5641, inspect and replace hydraulic filter attachment bolts in accordance with Preliminary Technical Leftlet (PTL) No. 308 for all Model 700 series and PTL No. 177 for all 800 series airplanes, both dated February 7, 1979, within 1,000 hours time is service after the effective date of this AD.

B. Inspect and modify entrance and cargo doors of Model 700 series airplanes in accordance with PTL No. 235, Issue 3, dated December 8, 1968, within 350 hours time in service after the effective date of this AD. Subsequent inspections, as denoted in paragraph 4.2 of the PTL, must be accomplished at intervals not to exceed 350 hours from the previous inspection. Modify Model 700 series airplanes in accordance with the instructions in BAe bulletin for Modification No. D.3051, Issue 1, dated April 23, 1962, and Issue 2, dated May 17, 1978, within 350 hours time in service after the effective date of this AD, for all entrance and cargo door bolt sleeves.

C. Replace rudder spigot and mounting block on Model 700 series and Model 800 series airplanes in accordance with PTL No. 311, Issue 1, and PTL No. 180, Issue 1, respectively, both dated May 22, 1981, at or before 29,500 hours total time in service or within the next 500 hours after the effective date on this AD, whichever occurs later.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

This amendment becomes effective October 22, 1984.

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Viscount airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been place in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 7, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-24884 Filed 9-19-84; 8:45 am.]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-28-AD; Amdt. 39-4919]

Airworthiness Directives: Gates Learjet Model 24, 25, 28, 29, 35, 36, and 55 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires modification of the aileron trim tab on certain Gates Learjet Model 24, 25, 28, 29, 35, 36, and 55 series airplanes. The manufacturer has determined that the aileron trim tab balance weight is insufficient to meet the failsafe requirements of the Federal Aviation Regulations. This action is needed to prevent possible flutter in the event of a failure or disconnect in the trim tab system.

DATE: Effective October 22, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information and airplane modification kits (AMK) may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277; telephone (316) 946-2000. This information is also contained in the Airworthiness Rules Docket which is located in the Office of the Regional Counsel, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Marvin D. Beene, Airframe Branch, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the aileron trim tab balance weight on certain Gates Learjet Model 24, 25, 28, 29, 35, 36, and 55 series airplanes was published in the Federal Register on May 24, 1984 (49 FR 21937). The comment period closed July 16, 1984. The FAA determined that this action was necessary to provide a failsafe/flutter-free trim tab system. Recent extensive flutter investigations conducted by Gates Learjet to validate the effectiveness of the design static balance revealed that additional weight is required to prevent aileron trim tab flutter in the event of a failure or disconnect of the tab connecting rod.

Interested persons were afforded an opportunity to comment on the proposed AD. The only respondent concurred with the proposed AD.

Approximately 900 airplanes on the U.S. Registry will be affected by this AD. It will take approximately 17 manhours per airplane to accomplish the required actions at an average labor cost of $35 per manhour. Parts are estimated at $23 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $556,200. For these reasons, this rule is not considered to be major under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Gates Learjet: Applies to the following model/series airplanes certificated in all categories except airplanes modified in

accordance with Supplemental Type Certificate SA944NW (Dee Howard XR Modification). Compliance required as indicated unless already accomplished.

Model	Serial Nos.
24	100 thru 357.
25	003 thru 369.
28	001 thru 005.
29	001 thru 004.
35	001 thru 514.
36	001 thru 053.
55	001 thru 105.

To prevent aileron/trim tab flutter due to a failure or disconnect of the tab control system, accomplish the following:

A. Within the next 600 hours time in service, or the next aileron/trim tab removal or rebalance, whichever occurs first, replace the trim tab balance weight and rebalance the left aileron in accordance with the instructions in Gates Learjet Corporation Airplane Modification Kit Number AMK 83-3 for Models 24, 25, 28, 29, 35, and 36; and AMK 55-83-3 for Model 55.

B. Special flight permits may be issued in accordance with FAR 21.197 to operate airplanes to a base in order to comply with the modification requirements of this AD.

C. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. These documents may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

This amendment becomes effective October 22, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Gates Learjet Model 24, 25, 28, 29, 35, 36, or 55 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 7, 1984.

Wayne J. Barlow,
Acting Director, Northwest Mountain Region.

[FR Doc. 84-24885 Filed 9-19-84; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-CE-24-AD; Amdt. 39-4916]

Airworthiness Directives; Ayres Corporation Model S2R-R1820 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), 84-09-03, applicable to certain Ayres Corporation Model S2R-R1820 airplanes and codifies the corresponding emergency AD letter dated May 7, 1984, into the Federal Register. It requires visual inspection and modification of the forward fuselage upper longerons. The AD is needed to prevent failure of both forward fuselage upper longerons which could result in separation of the engine in flight.

DATES: *Effective:* September 21, 1984, as to all persons except those persons to whom it was made immediately effective by priority letter AD 84-09-03, issued May 7, 1984.

Compliance: As prescribed in body of AD.

ADDRESSES: Ayres Corporation Service Bulletin No. SB-AG-16 dated April 1, 1984, applicable to this AD may be obtained from Ayres Corporation, P.O. Box 3090, Albany, Georgia 31706; Telephone (912) 883-1440.

A copy of this service bulletin is also contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Don Buckley, Aerospace Engineer, Altanta Aircraft Certification Office, ACE-120A, Central Region, Federal Aviation Administration, 1075 Innerloop Road, College Park, Georgia 30337; Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been reports of cracks through the full circumference of the forward fuselage upper tubular longerons just aft of the engine mount attachment structure on Ayres Model S2R-R1820 airplanes. Failure of these longerons could cause structural failure of the attachment of the engine mount to the fuselage with the resulting separation of the engine from the airplane. The FAA determined that this unsafe condition is likely to exist or develop in other airplanes of the same type design, that immediate corrective action was required, notice and public procedure thereon were impractical and contrary to public interest and good cause existed to make the AD effective immediately. Accordingly, on May 7, 1984, priority letter AD 84-09-03 was issued and made effective immediately as to all known U.S. owners and operators of certain Ayres Corporation Model S2R-R1820 airplanes. The AD required the visual inspection and modification of the forward fuselage upper longerons. AD action was necessary to prevent failure of both forward fuselage upper longerons which could result in separation of the engine in flight. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons who did not receive the letter notification.

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). 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

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Ayres Corporation: Applies to Model S2R-R1820 (S/N's R1820-001DC through S/N R1820-031DC) airplanes, certificated in any category:

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the fuselage upper longerons, accomplish the following:

(a) Before further flight and thereafter at intervals not to exceed ten (10) hours time-in-

service, visually check the forward fuselage upper longerons for cracks in accordance with the following:

(1) Remove the fuselage side skins located between the wing upper surface and the hopper to obtain access to the upper longerons from the firewall to the cockpit.

(2) Check the longerons in the following areas: (Same as shown in Figure 1 of Ayres Corporation Service Bulletin No. SB-AG-16 dated April, 1, 1984).

(i) Area between upper engine mount and first hopper attachment bracket.

(ii) Each vertical and diagonal tube intersection at the upper longeron.

(iii) Each hopper attachment bracket.

This check may be accomplished by the holder of at least a private pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by that person.

(b) If cracks are found as a result of any check required by paragraph (a), prior to further flight, install the tubular split-sleeve modification (P/N CK-AK-19) on both upper longerons in accordance with Ayres Corporation Service Bulletin No. SB-AG-16, dated April 1, 1984.

(c) Within one hundred (100) hours time-in-service after the effective date of this AD, install the tubular split-sleeve modification (P/N CK-AG-19) on both upper longerons in accordance with Ayres Corporation Service Bulletin No. SB-AG-16, dated April 1, 1984.

(d) The checks required by paragraph (a) may be discontinued when the tubular split-sleeve modification (P/N CK-AG-19) is incorporated.

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

(f) An equivalent means of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, FAA Central Region; Telephone (404) 763-7428.

(Secs. 331(a), 601 and 603 of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Publ L. 97-449, January 12, 1983) § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective September 21, 1984, as to all persons except those persons to whom it was made immediately effective by priority letter AD 84-09-03, issued May 7, 1984.

Issued in Kansas City, Missouri, on September 6, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-24879 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-ASW-29; Amdt. 39-4914]

Airworthiness Directives; Hiller Model UH-12D and UH-12E Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) which requires a one-time inspection and repair or replacement, if necessary, of an engine mount fitting on certain Hiller Model UH-12 series helicopters converted to turbine power. This superseding AD is required because an engine mount fitting has failed, necessitating expansion of the original AD to include repetitive inspections for the purpose of detecting fatigue cracks in the engine mount fitting area. This AD requires repetitive inspections, or replacement, if necessary, of affected engine mounts of certain Hiller Model UH-12D and UH-12E series helicopters to preclude failure of the engine mount which could result in loss of the helicopter.

DATE: *Effective:* September 20, 1984.

Compliance schedule: As prescribed in body of the AD.

ADDRESSES: The applicable service information may be obtained from Hiller Helicopters, 2075 West Scranton Avenue, Porterville, California 93257.

A copy of the service information may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Richard Yarges, Aerospace Engineer, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, Northwest Mountain Region, FAA, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Telephone (206) 431-2925.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-3538 [44 FR 50035; August 27, 1979], AD 79-13-01, currently requiring a one-time inspection and repair or replacement, as necessary, of an engine mount fitting on certain Hiller Model UH-12 series helicopters.

AD 79-18-01 is the result of cracks detected in the outer gimbal forward attach fitting of Hiller engine mount Part No. 63181-5. The applicability of AD 79-18-01 is limited to Hiller Model UH-12D and Model UH-12E series helicopters which have been converted to turbine power under Soloy Conversions, Ltd., Supplemental Type Certificate (STC) SH177WE or SH178WE.

Because of a recent accident which resulted from the failure of this attach fitting due to progressive fatigue cracking, the FAA has determined that repetitive inspections are necessary.

Therefore, AD 79-18-01 is being superseded by a new AD requiring repetitive inspections for evidence of fatigue cracks on all outer gimbal forward attach fittings of engine mount Part No. 63181-5, installed on Hiller Model UH-12D and UH-12E series helicopters converted to turbine power, without exception.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by deleting Amendment 39-3538, AD 79-18-01, and adding the following new airworthiness directive:

Hiller Helicopters, a subsidiary of Rogerson Aircraft Corp (formerly Hiller Aviation): Applies to Model UH-12D and UH-12E series helicopters equipped with engine mount Part No. 63181-5 certificated in any category which have been converted to turbine power by STC SH177WE or SH178WE.

Compliance is required as indicated (unless already accomplished).

(a) Within the next 20 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 600 hours' time in service from the last inspection, remove the paint from the outer gimbal forward attach fitting of the Hiller engine mount Part No. 63181-5 and dye penetrant or magnetic particle inspect the gusset weld beads for cracks on both the front and back sides of the gusset.

(b) If cracks are found, replace the engine mount Part No. 63181-5 before further flight.

(c) Prior to or immediately following installation or reinstallation of engine mount Part No. 63181-5 in any of the Model UH-12 series helicopters listed above, perform the inspection required by paragraph (a) of this AD.

(d) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

This supersedes Amendment 39-3538 [44 FR 50035; August 27, 1979], AD 79-18-01.

This amendment becomes effective September 20, 1984.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, (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)

Issued in Fort Worth, Texas, on September 4, 1984.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 84-24851 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-CE-22-AD; Amdt. 39-4915]

Airworthiness Directives; Walter Kidde and Overland Aviation Services Co. Explosive Cartridges

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Walter Kidde and Overland Aviation Services Co. aircraft fire extinguisher discharge cartridges which requires inspection for the presence of aluminum foil in the electrical receptacles of these cartridges installed in some air carrier and general aviation aircraft. The aluminum foil used as a safety measure during shipping and handling of the explosive cartridges has been left on the terminals of the electrical receptacle when the cartridge is installed in the aircraft fire extinguisher bottles. The aluminum foil may short out the terminals and cause the cartridge not to fire, thus preventing the fire extinguisher from discharging. The required action will detect and correct this condition.

DATES: *Effective Date:* September 21, 1984.

Compliance: As indicated in the body of the AD.

ADDRESSES: Walter Kidde Telex PS-317, applicable to this AD, may be obtained from Walter Kidde, Division of Kidde, Inc., Wilson, North Carolina 27893; Information respecting the Overland Aviation Cartridges may be obtained from Overland Aviation Services Co., 10271 Bach Blvd., St. Louis, Missouri 63132.

FOR FURTHER INFORMATION CONTACT: Arthur W. Nelson, ACE-140A, Atlanta Aircraft Certification Office, Federal Aviation Administration, 1075 Innerloop Road, College Park, Georgia 30337; Telephone number (404) 763-7435.

SUPPLEMENTARY INFORMATION: For many years it has been an accepted industry practice to insert aluminum foil in the electrical receptacle of an explosive cartridge used to discharge fire extinguisher bottles as a safety measure during shipping and handling. This is done by both the manufacturers and the users (i.e., during routine fire extinguisher maintenance). Some of the cartridges had a warning tag installed by the manufacturer which stated, "All aluminum foil must be removed from electrical receptacle (connector) prior to mating of a cartridge with (fire extinguisher) container." Others did not have the warning tag. Recently, a shorting cap has been developed for certain cartridges that eliminates both the need to use the foil and the addition of the warning tag. It has always been the responsibility of the end user to remove the shorting device when the cartridge is installed in the aircraft. Some Walter Kidde cartridges were shipped with both a shorting cap and aluminum foil without the warning tag. Cartridges were also shipped with the aluminum foil in the connector, no shorting caps and no warning tag.

Recently, McDonnell Douglas Corporation installed cartridges in the fire extinguishers on several DC-10 aircraft by removing the shorting cap but not the aluminum foil. When the problem was discovered, they issued Service Bulletins calling for a one-time inspection of all cartridges on DC-8, DC-9 and DC-10 aircraft to ensure that the foil is removed. It is possible that other airframe manufacturers and aircraft operators which utilize fire extinguishers with discharge cartridge Kidde Part Numbers 873571, 876296, 897776, 898558, and Overland Aviation Part Numbers OA841155, OA873571, OA876296 and OA876299 are also failing to remove this foil during installation. Testing results indicate aluminum foil in the electrical receptacles may result in shorting the cartridge and cause the fire extinguisher to be inoperative. This situation would not be detected by any on-board test. Also, it is not possible to isolate the existence of foil to any lot number or manufacture date. The only positive method of determining the existence of foil is to remove the electrical lead to the installed subject connectors and conduct a one-time visual inspection to ensure that the aluminum foil is not present.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other products of the same design, an AD is being issued requiring a one-time inspection of Walter Kidde P/N 873571, 876296, 897776 and 898558 fire extinguisher cartridges manufactured prior to July 1984, and Overland Aviation Service Co. P/N OA891155, OA873571, OA876296 and OA876299 fire extinguisher cartridge manufactured prior to August 7, 1984, installed on any airplane. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), is amended by adding the following new AD:

Walter Kidde and Overland Aviation Service Co.: Applies to Walter Kidde discharge cartridges Part Number (P/N) 873571, 876296, 897776 and 898558 manufactured prior to July 1984, and Overland Aviation Service Co. discharge cartridges P/N OA841155, OA873571, OA876296 and OA876299 manufactured prior to August 7, 1984.

Compliance: Required within thirty (30) calendar days or at installation on any aircraft, whichever occurs later, unless already accomplished.

To prevent hazards in flight associated with the non-operation of the fire extinguisher caused by non-firing of the discharge cartridge(s), accomplish the following:

(a) Pull the applicable circuit breakers and disconnect the fire extinguisher bottle electrical plugs from the discharge cartridge. Inspect the electrical receptacle of the cartridge for compressed aluminum foil, which may have the appearance of solder and remove if present. Reinstall the plug and reset the applicable circuit breaker.

(b) An equivalent means of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, 1075 Innerloop Road, College Park, Georgia 30337; Telephone (312) 694-7357.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 as amended U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

This amendment becomes effective on September 21, 1984.

Issued in Kansas City, Missouri, on September 6, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-24878 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 84-ACE-04]

Alteration of Transition Area; Fairfield, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Fairfield, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Fairfield Municipal Airport, Fairfield, Iowa, utilizing the Ottumwa, Iowa, VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules. (VFR).

EFFECTIVE DATE: December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Fairfield, Iowa, Municipal Airport is being established utilizing the Ottumwa VORTAC as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Fairfield, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffice control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 21072 and 21073 of the Federal Register dated May 18, 1984, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Fairfield, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the proposed rulemaking.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, by altering the following transition area:

Fairfield, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Fairfield Municipal Airport (Latitude: 41°03'15"N, Longitude: 91°58'40"W); and within 3 miles each side of the 183° bearing from Fairfield Municipal Airport, extending from the 6-mile radius area to 11 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

This amendment becomes effective at 0901 g.m.t. December 20, 1984.

Issued in Kansas City, Missouri, on September 4, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-24231 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

Exemptions From Speculative Position Limits for Certain Spread Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is amending certain of the previously adopted federal speculative position limits in domestic agricultural commodities. These amendments provide for a limited exemption from the federal speculative position limits for positions spread between options on a futures contract and the underlying futures contract pursuant to Commission-approved exchange rules.

DATE: These rules shall be effective October 22, 1984.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, at the above address. Telephone: (202) 254-6990.

SUPPLEMENTARY INFORMATION:

I. Background

On July 11, 1984, the Commodity Futures Trading Commission ("Commission") proposed amendments to the federal speculative limits in certain domestic agricultural commodities. These proposed amendments were made in light of the Commission's previously adopted amendments to its regulations governing a three-year pilot program which permitted the trading of commodity options in domestic agricultural commodities. 49 FR 2752.[1] Included in this pilot program for options on futures contracts in domestic agricultural commodities are those commodities enumerated in section 2(a)(1)(A) of the Act, 7 U.S.C. 2 (1983).[2] The pilot program for options on these contracts was included in the existing regulatory structure for exchange-traded options where possible.

Speculative position limits, either federal or exchange-set, are required for all designated contracts. Federal speculative position limits have long been established for many domestic agricultural commodities. *See*, Part 150 of the Commission Rules, 17 CFR Part 150 (1983). For those commodities which do not have federal limits, exchanges are required to establish speculative limits by exchange rule. *See*, Commission Rule 1.61, 17 CFR 1.61. Because the federal speculative limits were adopted during a period in which options on those contracts were statutorily barred, federal limits do not extend to options on domestic agricultural commodities.[3] Nor do the federal speculative limits provide specifically for futures/options spreads, as they do for spreading between certain futures contracts.

Commission Rule 1.61, 17 CFR 1.61, provides that exhanges must submit for Commission approval pursuant to Section 5a(12) of the Act, 7 U.S.C. 7a(12) (1983), exchange rules establishing speculative position limits for futures contracts and options not having federal or exchange-set speculative limits. In addition to exchange rules providing for limits on the net maximum long or short positions which any one person may hold or control, Rule 1.61 requires that contract markets describe an appropriate method of enforcement of speculative position limits, including procedures for determining the applicability of, and compliance with, rules concerning hedging or other exemptions.

II. Proposed Rules

The rules as proposed provided for a limited exemption from federal speculative position limits for positions spread between options on a futures contract and the underlying domestic agricultural futures contract pursuant to Commission-approved exchange rules. The Commission provided for a thirty-day comment period on these proposed rules. In response, the Commission received comments from a grain marketing cooperative, a large agri-business company and two commodity futures exchanges.

In general, the first two commentors opposed the rules as proposed. They reasoned that, in light of the pilot nature of the option program, a cautious approach not permitting any revisions to federal limits should be followed at this time. In particular, one commentor stated that the proposed rules would exacerbate the "depth of apprehension and mistrust which presently exists within the farming community and grain business regarding the futures exchanges in Chicago." This commentor opined that implementation of the proposal would increase the volatility of the futures markets. The second commentor stated that the federal speculative limits "were set in place in an effort to prevent market distortion and possible manipulation" and questioned the Commission's rationale that increased speculative position limits for spread positions are appropriate in light of the reduced net exposure from such positions. It continued that such spreads may have a distorting relationship on the various price differentials and on the flat prices of the contracts in each leg of the spread.

The Commission recognizes that generally spread positions are not entirely without risk or that they lack the ability to affect prices. In explaining the proposed rule, the Commission noted that each leg of a spread represents a "one sided" position in the market in which it is placed and that extraordinarily large spread relationships have the potential of distorting price relationships. 48 FR 28254. The Commission also noted that this concern was particularly relevant for agricultural commodities. Accordingly, the Commission stated that exemptions or higher speculative limits for spread positions should be established with caution and in that regard provided an explanation of the salient features of exchange exemptive procedures it contemplated would be approved by the Commission.

Moreover, although the main rationale for federal speculative limits is to prevent sudden or unreasonable or unwarranted price movements arising from excessive speculation, the Commission has recognized that the overall impact of excessively large speculative limits applies to both their initial market effect and to the subsequent impact from a speculator's possibly over-extended position. Thus, the Commission has maintained in reviewing currently extant exchange-set speculative limits that such limits should also take into account the net financial exposure of traders under such limits as well as the liquidity of the affected markets.

With respect to the argument that, because the options program is new, the Commission should not undertake this rulemaking at this time, the Commission notes that it has proceeded most cautiously in establishing the pilot option program. However, as discussed above, higher speculative limits for spread positions are a well accepted practice in both futures and options trading and existing federal regulations currently permit higher position limits for certain spread positions. Accordingly, the Commission does not view such a provision as experimental, particularly when viewed in the context of the stringent guidelines for Commission approval of proposed exchange spreading exemptions which are discussed below. Moreover, the Commission notes that the current federal speculative position limits for "outright" or "one-sided" positions in futures contracts are unaffected by these amendments in that such limits continue to apply to all outright futures positions including those which may result from the exercise of an option.

The futures exchange's comments were generally favorable to the Commission's initiative, supporting the concept of the exemption for futures/options spreads and the concept that the exemption would be made pursuant to Commission-approved exchange rules. The exchange took exception, however, to certain technical aspects of the proposed rules and of the guidelines

[1] These amendments were adopted subsequent to the repeal of a statutory bar to such options trading found in Section 4c of the Commodity Exchange Act, 7 U.S.C. 6c (1978). *See*, Section 206 of the Futures Trading Act of 1982, Pub. L. 97-444, 96 Stat. 2204, 2301 (1983).

[2] These commodities are wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Irish potatoes, wool, wool tops, fat and oil (including lard, tallow, cotton seed oil, peanut oil, soybean oil, and all other fats and oils), cotton seed meal, cotton seed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice.

[3] Federal speculative position limits apply to grain, cotton, rye, soybeans, eggs, potatoes, corn, and wheat. Of these commodities, barley and flaxseed (grains), rye, and eggs are no longer actively traded.

provided by the Commission for the elements which should be included in acceptable exchange rules.

In this regard the exchange commentor questioned the Commission's guidelines involving what trading strategies are contemplated to be included as exempted spread or arbitrage positions. The Commission in its explanation of the proposed rules explained that exempted spread or arbitrage positions should be limited under exchange rules to futures/options positions on the same board of trade in the same commodity, which are, as a totality, offsetting. 49 FR 28254. The exchange commentor suggested that a spread and arbitrage exemption should nonetheless be permitted on a discretionary basis between inter-commodity and inter-exchange spreads and that positions which are delta-neutral should be included within the class of transactions for which an automatic, predetermined exemptive level is established. Delta-neutral option/futures spreads are positions on the opposite side of the market in which the number of option contracts is such that the total change in price of the option positions will closely offset the change in price of the futures position.

As explained below, the Commission has reconsidered the criteria listed in its explanation of the proposal and believes that a delta-equivalent system of evaluating futures/options spread positions and not an automatic one-to-one spread position exemption [4] is the more appropriate means to lessen any possible harmful market effects from these exemptions.[5]

In this connection, however, the Commission notes that in reviewing exchange rules submitted for its approval, it will rigorously scrutinize the exchanges submission under paragraph (d)(4) of Commission Rule 1.61 concerning the method of enforcement. The Commission believes that inclusion of any spread exemptions on a delta-equivalent basis must be pursuant to a specific, readily enforceable system for identifying and monitoring those positions which are delta-neutral. In addition, because delta relationships between futures and options vary over time and between specific combinations of instruments, the Commission will scrutinize carefully any proposed rules concerning the manner in which persons subject to such exemptions would be required to maintain compliance with the applicable limit.

With respect to inter-commodity spreads, the Commission does not necessarily disagree with the commentor's observation that such positions may result in less risk exposure than one-sided or outright positions. However, the Commission believes that such positions offer the potential for significantly more market exposure and impact than the limited, intra-commodity spread positions between instruments having the same delivery months contemplated under the proposed rules. Moreover, it should be noted that for the options pilot program for non-domestic agricultural commodities the Commission has not approved any exchange rules which would exempt or otherwise provide higher speculative limits for inter-commodity spread positions between options or between options and futures contracts. Accordingly, the Commission has determined not to amend the proposed rules to recognize inter-commodity spreading at this time. However, during the trading of the options pilot program for agricultural commodities the Commission staff will monitor the nature and potential impact of any intra-commodity spread exemptions granted pursuant to these amendments as a possible basis for the future consideration of permitting inter-commodity exemptions.

The Commission has also considered the exchange commentor's views on the advisability of spreads between futures and options traded on different boards of trade and determined not to incorporate those suggestions in these rules at this time. The Commission noted in proposing these rule amendments that:

> All position levels set by the exchange, whether a predetermined absolute level for all traders, or an individual level on a case-by-case basis, must take into account, where applicable, the size of each leg of a spread and its relationship to crop years as well as the relative financial exposure of the trader *and the liquidity of the affected markets.*

49 FR 28254 (emphasis added.)

Although federal speculative limits provide higher position limits for such inter-market spreads between grain contracts, they have been set in view of the liquidity of each of the relevant contract markets. In the case of exchange-set speculative limits, it is not clear that such considerations concerning the relative liquidity of a second contract market can, or should, be made by the exempting contract market. Accordingly, the Commission believes that exemptions from applicable existing federal limits in such instances are inappropriate, and therefore any possible anticompetitive effect from the lack of an inter-exchange spread exemption is more than outweighed, under Section 15 of the Act, by the objectives and policies of the Act furthered by this restriction.

The other exchange which commented on this proposal is not designated as a contract market in any domestic agricultural commodity. Its comments were more general, advocating that this approach be adopted for all commodities and that floor traders be exempt from speculative position limits. As the Commission noted above, the concepts underlying this rule are not novel and follow that which is already permitted for options under Commission Rule 1.61. Moreover, the Commission does not agree that a blanket exemption for floor traders' positions is warranted since the commentor failed to demonstrate that the impact of such positions is different from that of any other speculator.

III. Guidelines for Exchange Rules

In view of the issues raised by the commentors as well as its own further consideration of the rules as proposed, the Commission wishes to clarify further the strict criteria by which it will evaluate proposed exchange rules for spread exemptions during the pilot program for options on agricultural commodities. These guidelines are as follows.

First, the Commission contemplates that any exchange rules it approves for purposes of affording exemptions or higher position limits for futures/options spreads will be confined to those cases where both legs pertain to the same delivery month in the underlying futures contract. The Commission believes that this is necessary to ensure that the spread positions in fact will be as a totality, offsetting, and to minimize the possibility that the separate legs of the spread become economically independent and thereby exert an undesirable effect on the pricing in the futures and options markets. The Commission will rigorously review any proposed deviation from this guideline

[4] In the explanation accompanying the proposal the Commission stated that for "predetermined and preapproved" spread or arbitrage exemptions, exchanges might include pursuant to this rule exemptions for conversions, reverse conversions and *one to one futures options spreads.* 45 FR 28254. (emphasis added) However, upon further consideration, the Commission believes that a nominal specification of one futures contract-to-one options contract is not sufficient to assure that futures/options spread positions are economically balanced and that a specification of delta-neutrality is more appropriate to achieve this objective.

[5] In this respect, one commentor pointed out that the guidelines in the proposal concerning one-to-one futures options spreads,

> Applies a literal interpretation of its requirement that all exempted spreads be totally offsetting which ignores those trading strategies which result in real, instead of merely facial, offsetting.

to ensure that the proposal nonetheless meets the criteria that such spreads be offsetting.

Second, exchange rules approved by the Commission must provide exemptions or higher limits for only those positions which are economically balanced arbitrage or spread positions, *e.g.*, conversions, reverse conversions, or "delta neutral" spread positions. This will ensure that positions acquired under the exemption in fact will be offsetting, and not for the purpose of acquiring additional futures position which, because of the lack of economic balance, are essentially one-sided.

The requirement that such positions be ofsetting as a totality, through the use of a delta neutral system, for example, is necessary because these rules involve exemptions from speculative limits on futures as well as on options.[6] Thus, exchange rules which provide for exemptions based on their delta neutrality will be consistent with this guideline, but those for simple one-to-one positions will not be. The Commission is modifying the rules as proposed to reflect specifically the requirement that the legs of the spread or arbitrage positions be offsetting.

Third, as noted in the explanation of the rules as proposed, the Commission anticipates that the exchange rules which can be approved pursuant to these amendments to Part 150 will provide for a limitation on the size of futures positions which can be acquired in connection with a predetermined and preapproved futures/options spread or arbitrage exemption. The Commission will review these limitations in view of the liquidity of the relevant futures market. Those transactions not within the enumerated class must be approved by the exchange on a case-by-case basis taking into account, among other things, the liquidity of the affected markets and the relative financial exposure of the trader. In this connection, in considering whether to approve exchange rules which allow individual exemptions which are not specifically enumerated as to type or amount, the Commission will require exchange rules to detail the specific criteria to be considered by the exchange in determining the nature and amount of such exemptions. These criteria must be sufficiently specific to assure the Commission that the objectives of the position limits in Section 150 of the Regulations are met on a continuous basis.

[6] Among other things, one major objective of specifying speculative limits on options contracts is to ensure that trading activity in options do not undermine the primary market for futures contracts. 46 FR 50944. In this respect it should be noted that although the Commission has previously approved rules which provide for specific enumerated exemptions or higher speculative limits levels for options positions which are spread against futures contracts, none of these previous rules exempted positions from exchange specified speculative position limits on the futures side of the spread.

IV. Related Issue: Regulatory Flexibility Act.

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in adopting rules, consider their impact on small businesses. The Commission has previously determined that large traders are not "small entities" for purposes of the RFA. 47 FR 18618–18621 (April 30, 1982). The requirements of the RFA therefore do not apply to traders who are trading at levels high enough to trigger these exemptions. Accordingly, pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 150

Commodity exchange rules, Speculative position limits, Spreading exemptions from speculative position limits, Commodity futures.

In consideration of the foregoing and pursuant to the authority in Sections 4a, 4c(b), 4c(c), and 8a of the Commodity Exchange Act, as amended, 7 U.S.C. 6a, 6c(b), 6c(c), and 12a (1982), the Commission amends Part 150 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 150—LIMITS ON POSITIONS

1. Section 150.1 is amended by redesignating paragraph (a)(1) as paragraph (a) introductory text and revising it as follows; by redesignating paragraph (a)(2) as paragraph (a)(1), and by adding new paragraph (a)(2) follows:

§ 150.1 Limits on position in grain for futures delivery.

(a) Position limits. The limit on the maximum net long or net short position which any one person may hold or control under contracts for futures delivery for grain on or subject to the rules of any one contract market except as specifically authorized by paragraph (a)(1) of this section is 2,000,000 bushels in any one future or in all futures combined.

(1) * * *

(2) To the extent that the positions held or controlled by any person are spread or arbitrage positions between futures and option contracts traded on the same board of trade in any one commodity which are as a totality offsetting, the limit on net positions set forth in paragraph (a) of this section may be exceeded on such conditions as specified by the board of trade in rules adopted pursuant to §§ 1.61 and 1.41 of this Chapter.

* * * * *

2. Section 150.2 is amended by adding new paragraph (a)(1) as follows:

§ 150.2 Limits on positions in cotton for future delivery.

(a) * * *

(a)(1) To the extent that the positions held or controlled by any person are spread or arbitrage positions between futures and options contracts traded on the same board of trade in any one commodity which are as a totality offsetting, the limit on net positions set forth in paragraph (a) of this section may be exceeded on such conditions as specified by the board of trade in rules adopted pursuant to §§ 1.61 and 1.41 of this Chapter.

* * * * *

3. Section 150.4 is amended by adding new paragraph (a)(1) as follows:

§ 150.4 Limits on positions in soybeans for future delivery.

(a) * * *

(1) To the extent that the positions held or controlled by any person are spread or arbitrage positions between futures and option contracts traded on the same board of trade in any one commodity which are as a totality offsetting, the limit on net positions set forth in paragraph (a) of this section may be exceeded on such conditions as specified by the board of trade in rules adopted pursuant to §§ 1.61 and 1.41 of this Chapter.

* * * * *

4. Section 150.10 is amended by adding paragraph (a)(2) as follows:

§150.10 Limits on positions in potatoes for future delivery.

(a) * * *

(2) To the extent that the positions held or controlled by any person are spread or arbitrage positions between futures and option contracts traded on the same board of trade in any one commodity which are as a totality offsetting, the limit on net positions set forth in paragraphs (a) and (a)(1) of this section may be exceeded on such conditions as specified by the board of trade in rules adopted pursuant to §§ 1.61 and 1.41 of this chapter.

* * * * *

5. Section 150.11 is amended by adding paragraph (a)(1) as follows:

§ 150.11 Limits on positions in corn for future delivery.

(a) * * *

(1) To the extent that the positions held or controlled by any person are spread or arbitrage positions between futures and option contracts traded on the same board of trade in any one commodity which are as a totality offsetting, the limit on net positions set forth in paragraph (a) of this section may be exceeded on such conditions as specified by the board of trade in rules adopted pursuant to §§ 1.61 and 1.41 of this chapter.

* * * * *

6. Section 150.12 is amended by adding paragraph (a)(1) as follows:

§150.12 Limits on positions in wheat for future delivery.

(a) * * *

(1) To the extent that the positions held or controlled by any person are spread or arbitrage positions between futures and option contracts traded on the same board of trade in any one commodity which are as a totality offsetting, the limit on net positions set forth in paragraphs (a) of this section may be exceeded on such conditions as specified by the board of trade in rules adopted pursuant to §§ 1.61 and 1.41 of this Chapter.

* * * * *

Issued in Washington, D.C. on September 14, 1984.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-24849 Filed 9-19-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM84-20-000; Order No. 396]

Delegation to the General Counsel

Issued: September 14, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Effective September 15, 1984, the Office of Opinions and Review (OOR) will be merged into the Office of the General Counsel (OGC). As a result of this reorganization, the functions previously delegated to the Director of OOR are redelegated to the General Counsel or his designee. The final rule amends the delegations of authority to reflect this reorganization.

EFFECTIVE DATE: September 15, 1984.

FOR FURTHER INFORMATION CONTACT: Albert J. Francese, Rulemaking and Legislative Analysis Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A.G. Sousa, Oliver G. Richard III and Charles G. Stalon.

I. Summary

On August 27, 1984, the Chairman of the Federal Energy Regulatory Commission (Commission) announced the merger of the Office of Opinions and Review (OOR) into the Office of the General Counsel (OGC), effective on September 15, 1984. As a result of this reorganization, the functions previously delegated to the Director of OOR will be redelegated to the General Counsel.

This final rule codifies, in 18 CFR 375.309, this redelegation of authority to the General Counsel. This final rule also removes § 375.310 in its entirety. That section contains the now-superseded delegations of authority to OOR. In making these revisions, the Commission is not substantively changing the authorities that have been previously delegated by the Commission.

II. Effective Date

Pursuant to 5 U.S.C. 553(b) (1982), this rule is issued without prior notice and comment because it is a rule of agency organization, procedure or practice. Because the rules are necessary to conform the Commission's regulations to existing internal agency practices and to provide the public with essential guidance concerning Commission reorganization, the Commission finds good cause under 5 U.S.C. 553(d) (1982) to make this rule effective immediately upon issuance.

List of Subjects in 18 CFR Part 375

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

In consideration of the foregoing, the Commission amends Part 375 of Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 375—[AMENDED]

1. Part 375 ia amended as follows:

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

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1982).

b. In § 375.309, paragraph (e) is revised and a new paragraph (f) is added to read as follows:

§ 375.309 Delegations to the General Counsel

* * * * *

(e) Designate presiding officers for proceedings under Subpart I and Subpart J of Part 385 of this chapter, who shall have all the authorities and duties vested in presiding officers by those rules and other applicable rules in conducting proceedings pursuant to section 503(c) and section 504(b) of the Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.* and section 502(c) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*

(f) Deny or grant, in whole or in part, petitions for waivers of fees prescribed in §§ 381.303, 381.304, and 381.405 of this chapter in accordance with § 381.106 of this chapter.

§ 375.310 [Removed]

C. Section 375.310 is removed.

[FR Doc. 84-24850 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 522

Animal Drugs, Feeds, and Related Products; Sulfadimethoxine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of three new animal drug applications (NADA's), one held by Bayvet Division of Miles Laboratories, Inc., providing for use of Suldixine™ (sulfadimethoxine) Tablets for treating bacterial infections in dogs and two held by Beecham Laboratories, Division of Beecham, Inc., for use of Sudine® (sulfadimethoxine) Tablets and Symbio® (sulfadimethoxine) Injection for treating bacterial infections in dogs and cats. In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of these NADA's.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of Bayvet's NADA 13-602 for Suldixine™ (sulfadimethoxine) Tablets and Beecham's NADA 13-526 for Sudine® (sulfadimethoxine) Tablets and NADA 13-527 for Symbio® (sulfadimethoxine) Injection. This document removes those portions of the regulations that reflect approval of these NADA's

List of Subjects

21 CFR Part 520

Animal drugs, oral use.

21 CFR Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C 360b(e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.84), Parts 520 and 522 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.2220b [Amended]

1. In Part 520, § 520.2220b *Sulfadimethoxine tablets and boluses* is amended by removing paragraphs (b) (2) and (4) and (e)(2)(i) and designating paragraphs (b)(2) and (e)(2)(i) as [Reserved].

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 522, § 522.2220 *Sulfadimethoxine injection* is amended by revising paragraph (b)(2) and (3)(i) to read as follows:

§ 522.2220 Sulfadimethoxine injection.

* * * * *

(b) * * *

(2) *Sponsors.* See No. 000859 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) It is used or intended for use in the treatment of sulfadimethoxine-susceptible bacterial infections in dogs.

* * * * *

Effective date. October 1, 1984.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: September 7, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-24868 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[T.D. 7977]

Personal Services Income of Nonresident Alien Individuals

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to exemptions from the withholding of income tax from the independent personal services income of nonresident alien individuals. The document also contains final regulations to clarify the procedure for obtaining, and the duty of a withholding agent when an alien individual requests, an exemption from withholding pursuant to a tax treaty. The changes are made because the existing regulations impose certain withholding requirements that may be reduced or eliminated without adversely affecting compliance with the tax laws. The regulations provide guidance to alien individuals who wish to take advantage of the liberalized rules and to withholding agents who will receive requests for treaty exemptions with respect to the personal services income of nonresident alien individuals.

DATE: The amendments are effective December 19, 1984.

FOR FURTHER INFORMATION CONTACT: Carol T. Doran of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 1983, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1441, 1461, and 1462, the Employment Tax Regulations (26 CFR Part 31) under section 3401, and the Regulations on Procedure and Administration (26 CFR Part 301) under section 7605 and 7701, all of the Internal Revenue Code of 1954. A public hearing was neither requested nor held. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Discussion

Section 1441 of the Code requires that 30 percent of amounts paid to a nonresident alien individual as compensation for independent personal services be withheld by the person paying the amount (the withholding agent) to the individual. Section 1441(c)(4) of the Code gives the Service the authority to exempt, by regulations, compensation for personal services of a nonresident alien individual from 30 percent withholding. The final regulations revise existing exemptions and provide additional exemptions from withholding to alleviate overwithholding which results when tax is withheld at the 30 percent rate even though the taxpayer is subject to tax at an effective rate of less than 30 percent because the income is effectively connected with conduct of a U.S. trade or business.

The new exemptions from withholding may be obtained in two ways. Under one method, described in § 1.1441-4(b)(4), the 30 percent amount would initially be withheld in full from all payments of compensation except the final payment. Prior to receipt of the final payment, the individual may appear at an Internal Revenue Service district office and have his or her tentative income tax calculated. The individual would receive a letter from the Service stating the amount of income that is exempt from withholding and the amount, which would otherwise be withheld as tax from the final payment, that could be paid to the nonresident alien due to the exemption. Upon presentation of the letter, the withholding agent would be authorized to adjust the amount of tax withheld from the final payment. An income tax return must be filed at the usual time. A refund of any additional amounts of withheld tax in excess of the individual's liability could be obtained at that time.

Under the second method, described in § 1.1441-4(b)(3), the individual may enter into an agreement with the Service as to the amount of tax to be withheld, before actually receiving any payments. The agreement would take into account the anticipated gross income, personal exemptions, certain expenses of the alien individual, relevant income tax treaty provisions, and the appropriate rate of tax. The procedures for entering into this withholding agreement would be set forth by the Service.

The final regulations also revise and clarify existing procedure with respect

to a request by a nonresident alien individual under § 1.1441-4(b)(2) for an exemption from withholding on compensation for independent personnel services because of an income tax treaty or personal exemption amount. The final regulations require the alien individual to use a form developed by the Internal Revenue Service. The withholding agent must be reasonably satisfied that, based on the information supplied on the form, the individual's compensation qualifies for the exemption. The withholding agent must indicate his or her acceptance on the form and forward a copy to the Director of the Foreign Operations District 10 days prior to the effective date of the exemption. If the withholding agent is not reasonably satisfied that the alien is entitled to a treaty exemption, the agent is not relieved of liability for withholding the full 30 percent. The regulation thus adopts the standard for withholding agents found in Rev. Rul. 76-224, 1976-1 C.B. 268.

The proposed regulations proposed to revise § 1.1441-3(f) to provide that domestic partnerships must withhold 30 percent on all actual distributions to nonresident alien partners. One commentor suggested that this expansion of the withholding obligation was too broad in that it required withholding on income that is effectively connected with the conduct of a U.S. trade or business. The commentor suggested that the withholding requirement be limited to those distributions which represent income items described in paragraphs (a) and (b) of § 1.1441-2. The suggestion was adopted.

Miscellaneous updating, clarifying, and corrective changes to the withholding regulations also are adopted.

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations proposed herein will not have a significant economic impact on a substantial number of small entities. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6), and a Regulatory Flexibility Analysis is not required. The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Paperwork Reduction Act of 1980

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of this regulation is Carol T. Doran of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects

26 CFR 1.861-1—1.997-1

Income taxes, Aliens, Exports, DISC, Foreign investment in U.S., Foreign tax credit, Sources of income, United States investments abroad.

26 CFR 1.1441-1—1.1465-1

Income taxes, Aliens, Foreign corporations.

26 CFR Part 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1, 31, and 301 are amended as follows:

Income Tax Regulations

PART 1—[AMENDED]

§ 1.871-6 [Amended]

Paragraph 1. Paragraph (c) of § 1.871-6 is amended by removing "§ 1.1465.1" and inserting in its place "§ 1.1441-7".

§ 1.1441-2 [Amended]

Par. 2. Section 1.1441-2(c)(1) is amended by removing the phrase "as amended," in the first sentence and inserting in its place the phrase "as amended (8 U.S.C. 1101(a)(15)(F) or (J))."

Par. 3. Paragraphs (f) and (h) of section 1.1441-3 are revised to read as follows:

§ 1.1441-3 Exceptions and rules of special application.

* * * * *

(f) *Partnerships and fiduciaries.* Domestic partnerships are required to withhold the tax at source under § 1.1441.1 on items of income described in paragraphs (a) and (b) of § 1.1441-2 that are included in the distributive share (including amounts that are not actually distributed) of a member of such partnership who is a nonresident alien individual, nonresident alien or foreign fiduciary of a trust or estate, foreign partnership, or foreign corporation. Resident or domestic fiduciaries of trusts and estates are required to withhold the tax at source under § 1.1441-1 on all items of income described in paragraphs (a) and (b) of § 1.1441-2 that constitute gross income from sources within the United States (including amounts that are not actually distributed) of beneficiaries who are nonresident alien individuals, foreign partnerships, or foreign corporations. Because the gross income allocable to a partner and the income includable in the gross income of the beneficiary cannot be determined until the end of a taxable year of the partnership, trust, or estate, the partnership and the fiduciary of a trust or estate shall withhold under this section on all distributions to such partners and beneficiaries during the taxable years to the extent such distributions include items of income described in paragraphs (a) and (b) of § 1.1441-2. If the tax on actual distributions exceeds the tax on amounts includable in the gross income of the partner or beneficiary, the partner or beneficiary may file a claim for refund together with appropriate supporting evidence in accordance with paragraph (h) of this section. If a partnership or a fiduciary withholds under this section on a distributive partnership share or distributable net income of a trust or estate before the income is actually distributed to a partner or beneficiary, then withholding is not required when such income is subsequently distributed. Income described in paragraphs (a) and (b) of § 1.1441-2 that is paid to a foreign partnership or to a nonresident alien or foreign fiduciary is subject to withholding under § 1.1441-1 even though the members of the partnership or the beneficiaries of the trust or estate are individuals who are citizens or

residents of the United States or are domestic corporations.

* * * * *

(h) *Claims for refund.* A claim for refund referred to in paragraph (b) (1), (c) (3), (d) (1), or (f) of this section shall be made in accordance with the provisions of §§ 301.6402-2 and 301.6402-3 of this chapter (Regulations on Procedure and Administration).

* * * * *

§ 1.1441-4 [Amended]

Par. 4. Section 1.1441-4 is amended as follows:

1. Paragraph (a)(1) is amended as follows:

a. The first sentence is amended by removing the word "his" and inserting in its place the phrase "the person's", removing the word "he" and inserting in its place the phrase "the person" and removing the phrase "subparagraph (2) of this paragraph" and inserting in its place the phrase "paragraph (a)(2) of this section".

b. The second sentence is amended by removing the word "subparagraph" and inserting in its place the words "paragraph (a)(1)".

c. The following sentences are added immediately before the last sentence: "In determining whether services are performed by a foreign corporation or by an individual, see Revenue Ruling 74-330, 1974-2 C.B. 278, and Revenue Ruling 74-331, 1974-2 C.B. 282. For rules with respect to compensation for personal services performed by an individual, see paragraph (b) of this section."

2. The first sentence of paragraph (a)(2) is amended by removing the phrase "subparagraph (1) of this paragraph" and inserting in its place the phrase "paragraph (a)(1) of this section".

3. Paragraphs (b)(1) and (b)(2) are revised and new paragraphs (b)(3), (b)(4), and (b)(5) are added, the revised and new paragraphs to read as set forth below.

4. Paragraph (f)(1) is amended by removing the words "International Operations" in the first sentence and inserting in their place the words "the Foreign Operations District", and by removing the words "International Operations" both times they appear in the last sentence and inserting in their place both times the words "the Foreign Operations District".

5. Paragraph (f)(2) is amended as follows:

a. The first sentence of subdivision (i) is amended by removing the phrase "subparagraph (1) of this paragraph" and inserting in its place the phrase "paragraph (f)(1) of this section", and by removing the words "International Operations" and inserting in their place the words "the Foreign Operations District".

b. The last sentence of subdivision (i) is amended by removing the words "International Operations" and inserting in their place the words "the Foreign Operations District".

c. The first sentence of subdivison (ii) is amended by removing the words "International Operations" and inserting in their place the words "the Foreign Operations District", and by adding the words "or her" immediately after the word "his".

d. The second sentence of subdivision (ii) is amended by removing the words "International Operations" and inserting in their place the words "the Foreign Operations District".

e. The first sentence of subdivision (iii) is amended by removing the words "International Operations" both times they appear and inserting in their place both times the words "the Foreign Operations District".

6. The second sentence of paragraph (g) is amended by adding the phrase "or her" immediately after the word "his", and by adding the phrase "or she" immediately after the word "he".

7. The heading of paragraph (i) is revised to read: *"Income of foreign central bank of issue or Bank for International Settlements."*

8. The first sentence of paragraph (i)(2) is amended by removing the phrase "subparagraph (1) of this paragraph" and inserting in its place the phrase "paragraph (i)(1) of this section".

§ 1.1441-4 Exemptions from withholding.

* * * * *

(b) *Compensation for personal services of an individual*—(1) *Exemption from withholding.* Withholding is not required under § 1.1441-1 from salaries, wages, remuneration, or any other compensation for personal services of a nonresident alien individual if such compensation is effectively connected with the conduct of a trade or business within the United States and—

(i) Such compensation is subject to withholding under section 3402, relating to withholding of tax at source on wages, and the regulations thereunder.

(ii) Such compensation would be subject to withholding under section 3402 but for the provisions of section 3401(a) (other than paragraph (6) thereof) and the regulations thereunder.

(iii) Such compensation is for services performed by a nonresident alien individual who is a resident of Canada or Mexico and who enters and leaves the United States at frequent intervals.

(iv) Such compensation is, or will be, exempt from the income tax imposed by chapter 1 of the Code by reason of a provision of the Internal Revenue Code or a tax treaty to which the United States is a party or

(v) Such compensation is paid after January 3, 1979 as a commission or rebate paid by a ship supplier to a nonresident alien individual, who is employed by a nonresident alien individual, foreign partnership, or foreign corporation in the operation of a ship or ships of foreign registry, for placing orders for supplies to be used in the operation of such ship or ships with the supplier. See section 162(c) and the regulations thereunder for denial of deductions for illegal bribes, kickbacks, and other payments.

(2) *Manner of obtaining withholding exemption under tax treaty*—(i) *In general.* In order to obtain the exemption from withholding by reason of a tax treaty, provided by paragraph (b)(1)(iv) of this section, a nonresident alien individual must submit a statement (described in paragraph (b)(2)(ii) of this section) to each withholding agent from whom amounts are to be received. A separate statement must be filed for each taxable year of the alien individual. If the withholding agent is satisfied that an exemption from withholding is warranted (see paragraph (b)(2)(iii) of this section), the statement shall be accepted in the manner set forth in paragraph (b)(2)(iv) of this section. The exemption from withholding becomes effective for payments made at least ten days after a copy of the accepted statement is forwarded to the Director of the Foreign Operations District.

(ii) *Statement claiming withholding exemption.* The statement claiming an exemption from withholding shall be made on Form 8233. Form 8233 may be used for claiming exemption from withholding under tax treaties to which the United States is a party or with respect to the personal exemption amount described in § 1.1441-3(e)(2). Form 8233 shall be dated, signed by the person claiming the exemption from withholding, and verified by a declaration that the statements are made under the penalties of perjury. Form 8233 shall contain—

(A) The individual's name, address, United States taxpayer identification number, and United States visa number, if any,

(B) The country that issued the individual's passport and the number of such passport, or the individual's permanent address if a citizen of Canada or Mexico.

(C) The taxable year for which the statement is to apply, the compensation to which it relates, and the amount (or estimated amount if exact amount not known) of such compensation,

(D) A statement that the individual is not a citizen or resident of the United States,

(E) The number of personal exemptions claimed by the individual,

(F) A statement as to whether the compensation to be paid to him or her during the taxable year is or will be exempt from income tax and the reason why the compensation is exempt,

(G) If the compensation is exempt from withholding by reason of an income tax treaty to which the United States is a party, the tax treaty and provision under which the exemption from withholding is claimed and the country of which the individual is a resident, and

(H) Sufficient facts to justify the claim in exemption from withholding.

(iii) *Review by withholding agent.* The exemption from withholding provided by paragraph (b)(1)(iv) of this section shall not apply unless the withholding agent accepts (in the manner provided in paragraph (b)(2)(iv) of this section) the statement on Form 8233 supplied by the nonresident alien individual. Before accepting the statement the withholding agent must examine the statement. If the withholding agent knows or has reason to know that any of the facts or assertions on Form 8233 may be false or that the eligibility of the individual's compensation for the exemption cannot be readily determined, the withholding agent may not accept the statement on Form 8233 and is required to withhold under this section. If the withholding agent accepts the statement and subsequently finds that any of the facts or assertions contained on Form 8233 may be false or that the eligibility of the individual's compensation for the exemption can no longer be readily determined, then the withholding agent shall promptly so notify the Director of the Foreign Operations District by letter, and the withholding agent is not relieved of liability to withhold on any amounts still to be paid. If the withholding agent is notified by the Foreign Operations District that the eligibility of the individual's compensation for the exemption is in doubt or that such compensation is not eligible for the exemption, the withholding agent is required to withhold under this section. The rules of this paragraph are illustrated by the following examples.

Example 1. C, a nonresident alien individual, submits Form 8233 to W, a withholding agent. The statement on Form 8233 does not include all the information required by paragraph (b)(2)(ii) of this section. Therefore, W has reason to know that he or she cannot readily determine whether C's compensation for personal services is eligible for an exemption from withholding and, therefore, W must withhold.

Example 2. D, a nonresident alien, is performing services for W, a withholding agent. W has accepted a statement on Form 8233 submitted by D, according to the provisions of this section. W receives notice from the Internal Revenue Service that the eligibility of D's compensation for a withholding exemption is in doubt. Therefore, W has reason to know that the eligibility of the compensation for a withholding exemption cannot be readily determined, as of the date W receives the notification, and W must withhold tax under section 1441 on amounts paid after receipt of the notification.

Example 3. E, a nonresident alien individual, submits Form 8233 to W, a withholding agent for whom E is to perform personal services. The statement contains all the information requested on Form 8233. E claims an exemption from withholding based on a personal exemption amount computed on the number of days E will perform personal services for W in the United States. If W does not know or have reason to know that any statement on the Form 8233 is false or that the eligibility of E's compensation for the withholding exemption cannot be readily determined, W can accept the statement on Form 8233 and exempt from withholding the appropriate amount of E's income.

(iv) *Acceptance by withholding agent.* If after the review described in paragraph (b)(2)(iii) of this section the withholding agent is satisfied that an exemption from withholding is warranted, the withholding agent may accept the statement by making a certification, verified by a declaration that it is made under the penalties of perjury, on Form 8233. The certification shall be—

(A) That the withholding agent has examined the statement,

(B) That the withholding agent is satisfied that an exemption from withholding is warranted, and

(C) That the withholding agent does not know or have reason to know that the individual's compensation is not entitled to the exemption or that the eligibility of the individual's compensation for the exemption cannot be readily determined.

The exemption from withholding becomes effective for payments made at least ten days after a copy of the accepted statement is mailed in a proper manner by the withholding agent to the Director of the Foreign Operations District, pursuant to paragraph (b)(2)(v) of this section.

(v) *Copies of Form 8233.* The withholding agent shall forward one copy of each Form 8233 that is accepted by him or her to the Director of the Foreign Operations District, Internal Revenue Service, Washington, D.C. 20225, within five days of his or her acceptance. The Director of the Foreign Operations District may review the forms so submitted. The withholding agent shall retain a copy of Form 8233.

(3) *Withholding agreements.* Compensation for personal services of a nonresident alien individual who is engaged during the taxable year in the conduct of a trade or business within the United States may be wholly or partially exempted from the withholding required by § 1.1441–1 if an agreement is reached between the Director of the Foreign Operations District and the alien individual with respect to the amount of withholding required. Such agreement shall be available in the circumstances and in the manner set forth by the Internal Revenue Service, and shall be effective for payments covered by the agreement that are made after the agreement is executed by all parties. The alien individual must agree to timely file an income tax return for the current taxable year.

(4) *Final payment exemption*—(i) *General rule.* Compensation for independent personal services of a nonresident alien individual who is engaged during the taxable year in the conduct of a trade or business within the United States may be wholly or partially exempted from the withholding required by § 1.1441–1 from the final payment of compensation for independent personal services. This exemption does not apply to wages. This exemption from withholding is available only once during an alien individual's taxable year and is obtained by the alien individual presenting to the withholding agent a letter in duplicate from a district director stating the amount of compensation subject to the exemption and the amount that would otherwise be withheld from such final payment under section 1441 that shall be paid to the alien individual due to the exemption. The alien individual shall attach a copy of the letter to his or her income tax return for the taxable year for which the exemption is effective.

(ii) *Final payment of compensation for personal services.* For purposes of this paragraph, final payment of compensation for personal services means the last payment of compensation, other than wages, for personal services rendered within the United States that the individual expects to receive from any withholding agent during the taxable year.

(iii) *Manner of applying for final payment exemption.* In order to obtain the final payment exemption provided by paragraph (b)(4)(i) of this section, the nonresident alien individual (or his or her agent) must file the forms and provide the information required by the district director. Ordinary and necessary business expenses may be taken into account if substantiated to the satisfaction of the district director. The alien individual must submit a statement, signed by him or her and verified by a declaration that it is made under the penalties of perjury, that all the information provided is true and that to his or her knowledge no relevant information has been omitted. The information required to be submitted includes, but is not limited to—

(A) A statement by each withholding agent from whom amounts of gross income effectively connected with the conduct of a trade or business within the United States have been received by the alien individual during the taxable year, of the amount of such income paid and the amount of tax withheld, signed and verified by a declaration that it is made under penalties of perjury;

(B) A statement by the withholding agent from whom the final payment of compensation for personal services will be received, of the amount of such final payment and the amount which would be withheld under § 1.1441-1 if a final payment exemption under paragraph (b)(4)(i) of this section is not granted, signed and verified by a declaration that it is made under penalties of perjury;

(C) A statement by the individual that he or she does not intend to receive any other amounts of gross income effectively connected with the conduct of a trade or business within the United States during the current taxable year;

(D) The amount of tax which has been withheld (or paid) under any other provision of the Code or regulations with respect to any income effectively connected with the conduct of a trade or business within the United States during the current taxable year;

(E) The amount of any outstanding tax liabilities (and interest and penalties relating thereto) from the current taxable year or prior taxable periods; and

(F) The provision of any income tax treaty under which a partial or complete exemption from withholding may be claimed, the country of the individual's residence, and a statement of sufficient facts to justify an exemption pursuant to such treaty.

(iv) *Letter to withholding agent.* If the district director is satisfied that the information provided under paragraph (b)(4)(iii) of this section is sufficient, the district director will, after coordination with the Director of the Foreign Operations District, ascertain the amount of the alien individual's tentative income tax for the taxable year with respect to gross income that is effectively connected with the conduct of a trade or business within the United States. After the tentative tax has been ascertained, the district director will provide the alien individual with a letter to the withholding agent stating the amount of the final payment of compensation for personal services that is exempt from withholding, and the amount that would otherwise be withheld under section 1441 that shall be paid to the alien individual due to the exemption. The amount of compensation for personal services exempt from withholding under this paragraph (b)(4) shall not exceed $5,000.

Example 1. On July 15, 1983, B, a nonresident alien individual, appears before a district director with the information required by paragraph (b)(4)(iii) of this section. B has received personal service income in 1983 from which $3,000 has been withheld under section 1441. On August 1, 1983, B will receive $5,000 in personal service income from W. B does not intend to receive any other income subject to U.S. tax during 1983. Taking into account B's substantiated deductible business expenses, the district director computes the tentative tax liability on B's income effectively connected with the conduct of a trade or business in the United States during 1983 (including the $5,000 payment to be made on August 1, 1983) to be $3,300. B does not owe U.S. tax for any other taxable periods. The amount of B's final payment exemption is determined as follows:

(*1*) The amount of total withholding is $4,500 ($3,000 previously withheld plus $1,500, 30% of the $5,000 final payment);

(*2*) The amount of tentative excess withholding is $1,200 (total withholding of $4,500 minus B's tentative tax liability of $3,300); and

(*3*) To allow B to receive $1,200 of the amount which would otherwise have been withheld from the final payment, the district director allows a withholding exemption for $4,000 of B's final payment. W must withhold $300 from the final payment.

Example 2. The facts are the same as in Example 1 except B will receive a final payment of compensation on August 1, 1983, in the amount of $10,000 and B's tentative tax liability is $3,900. The amount of B's final payment exemption is determined as follows:

(*1*) The amount of total withholding is $6,000 ($3,000 previously withheld plus $3,000, 30% of the $10,000 final payment);

(*2*) The amount of tentative excess withholding is $2,100 (total withholding of $6,000 minus B's tentative tax liability of $3,900); and

(*3*) To allow B to receive $2,100 of the amount which would otherwise be withheld from the final payment, $7,000 of the final payment would have to be exempt from withholding; however, as no more than $5,000 of the final payment can be exempt from withholding under this paragraph (b)(4), the district director allows a withholding exemption for $5,000 of B's final payment. B must file a claim for refund at the end of the taxable year to obtain a refund of $600. W must withhold $1,500 from the final payment.

(5) *Requirement of return.* The tentative tax determined by the district director under paragraph (b)(4)(iv) of this section or by the Director of the Foreign Operations District under the withholding agreement procedure of paragraph (b)(3) of this section shall not constitute a final determination of the income tax liability of the nonresident alien individual, nor shall such determination constitute a tax return of the nonresident alien individual for any taxable period. An alien individual who applies for or obtains an exemption from withholding under the procedures of paragraphs (b) (2), (3), or (4) of this section is not relieved of the obligation to file a return of income under section 6012.

§ 1.1441-5 [Amended]

Par. 5. Section 1.1441-5 is amended as follows:

1. Paragraph (a) is amended by inserting the words "or she" following the word "he" in the first sentence.

2. Paragraph (c) is amended by removing the words "International Operations" and inserting in their place the words "the Foreign Operations District", and by adding at the end: "The original statement shall be retained by the withholding agent.".

§ 1.1441-6 [Amended]

Par. 6. Section 1.1441-6 is amended by adding to the end of paragraph (c)(1) the following: "Form 1001 shall not be used to secure a reduced rate of, or exemption from, withholding on independent personal services income. See § 1.1441-4(b)(2).".

Par. 7. A new § 1.1441-7 is added immediately after § 1.1441-6 to read as follows:

§ 1.1441-7 General provisions relating to withholding agents.

(a) *Withholding agent defined*—(1) *In general.* For purposes of chapter 3 of the Code, the term "withholding agent" means any person who pays or causes to be paid an item of income specified in § 1.1441-2 to (or to the agent of) a nonresident alien individual, a foreign partnership, a nonresident alien or foreign fiduciary of a trust or estate, or a foreign corporation, and who is required to withhold tax under sections 1441, 1442, 1443, or 1451 from such item of income. Any person who meets the definition of a withholding agent is

required to file the returns prescribed by § 1.1461–1. For example, an employer (as defined in § 31.3401(d)–1 of this chapter), to the extent the employer pays remuneration for services performed by a nonresident alien individual in the United States and such remuneration is excepted from the term "wages" under § 31.3401(a)(6)–(1) (c) or (e) of this chapter, must file a return as required by § 1.1461–2(c)(1).

(2) *United States obligations.* If the United States is a withholding agent for an item of interest, including original issue discount, on obligations of the United States or of any agency or instrumentality thereof, the withholding obligation of the United States shall be assumed and discharged by:

(i) The Commissioner of the Public Debt, for interest paid by checks issued through the Bureau of the Public Debt.

(ii) The Treasurer of the United States, for interest paid by him or her, whether by check or otherwise,

(iii) Each Federal Reserve Bank, for interest paid by it, whether by check or otherwise, or

(iv) Such other person as may be designated by the Commissioner.

(b) *Person designated to act for withholding agent*—(1) *Notice of duly authorized agent.* A withholding agent (including a state or possession of the United States or any agency or instrumentality thereof) that appoints a duly authorized agent to act on its behalf under the withholding provisions of chapter 3 of the Code is required to file a notice of such appointment with the Director of the Foreign Operations District, Internal Revenue Service, Washington, D.C. 20225. Such notice must be filed before the first payment with respect to which the authorized agent acts as such.

(2) *In general—liability of withholding agent.* If a duly authorized agent has become insolvent or for any other reason fails to make payment of money deposited with it by the withholding agent to pay tax required to be withheld under chapter 3 of the Code, or of money withheld under such chapter, the withholding agent is not discharged of its liability under such chapter since the authorized agent is merely the agent of the withholding agent.

(3) *Tax-free covenant bonds—liability of withholding agent.* If the duly authorized agent designated by a withholding agent to act for it has not withheld any tax from the income nor received any funds from the withholding agent to pay the tax which the withholding agent assumed in connection with its tax-free covenant bonds, then that authorized agent cannot be held liable for the tax assumed by the withholding agent merely by reason of the appointment as duly authorized agent. The withholding agent remains liable under chapter 3 of the Code since the duly authorized agent is merely the agent of the withholding agent.

(c) *Payments other than money.* In any case where income is payable in any medium other than money the withholding agent shall not release the property so received until the property has been converted into funds sufficient to enable the withholding agent to pay over in money the tax required to be withheld under chapter 3 of the Code with respect to such income.

§ 1.1461–1 [Amended]

Par. 8. Section 1.1461–1 is amended by removing the phrase "Director of International Operations, Internal Revenue Service, Washington, D.C. 20225," in paragraph (f)(3) and inserting in its place the phrase "Internal Revenue Service Center, Philadelphia, PA. 19255.".

Par. 9. Section 1.1461–2 is amended by revising paragraph (b) through (e) to read as follows:

§ 1.1461–2 Return of tax withheld.

* * * * *

(b) *Form 1042*—(1) *Filing requirement.* Every withholding agent shall make on or before March 15 an annual return on Form 1042 of the tax required to be withheld under chapter 3 of the Code during the preceding calendar year. Form 1042 is required to be made in respect of a calendar year, even though no tax was required to be withheld under such chapter during such year, if the withholding agent is required by paragraph (c)(1) of this section to make an information return on Form 1042S with respect to any payments made during such year. Form 1042 shall be filed with the Internal Revenue Service Center, Philadelphia, PA. 19255. The return shall be prepared in duplicate and shall include such information as is required by the form and accompanying instructions. If an adjustment is required on Form 1042 because of repayments of withheld tax pursuant to paragraph (a)(1) of § 1.1461–4, only the aggregate amount of such adjustment shall be shown thereon and no itemized explanation of such aggregate amount shall be required to accompany such form. See paragraph (b) of § 1.1461–4. If, pursuant to paragraph (a)(2) of § 1.1461–3, any additional amount of tax is required to be paid to the Internal Revenue Service Center, Philadelphia, PA. for the preceding calendar year when filing Form 1042, no itemized explanation of such additional payment of tax shall be required to accompany such form. The duplicate copy of Form 1042 shall be retained by the withholding agent.

(2) *Summary of accompanying forms.* Form 1042 shall be accompanied by the original copies of all Forms 1042S which were prepared by the withholding agent during the previous calendar year, including such forms upon which income exempt from withholding of tax is reported. The forms so forwarded with Form 1042 are not required to be listed thereon; but they shall be summarized on Form 1042 in the manner prescribed thereon and in the instructions applicable thereto. The exemption and reduced rate certificates, such as Form 1001A–D or Form 1001A–J, referred to in paragraph (g)(2) of § 1.1461–1 are not required to accompany, or to be summarized on, Form 1042.

(c) *Form 1042S*—(1) *Filing requirement.* Every withholding agent shall make on or before March 15 an annual information return on Form 1042S of all items of income specified in § 1.1441–2 paid during the previous calendar year to nonresident alien individuals, foreign partnerships, nonresident alien or foreign fiduciaries of a trust or estate, or foreign corporations if such items consist of—

(i) Amounts upon which tax would have been required to be withheld under chapter 3 of the Code,

(ii) Amounts upon which tax would have been required to be withheld under such chapter but for an exclusion from gross income applicable under any income tax treaty to which the United States is a party,

(iii) Amounts upon which tax would have been required to be withheld under such chapter but for the provisions of any specific complete or partial exemption from withholding applicable under the authority of any regulation under this title or any ruling or procedure of the Commissioner, or

(iv) Amounts in respect of which tax withheld under such chapter has, pursuant to such authority, been released or refunded to the payee by the withholding agent.

All amounts shall be shown in U.S. currency. Notwithstanding subdivisions (i) through (iv) of this subparagraph (1), income paid to nonresident alien individual, foreign partnerships, nonresident alien or foreign fiduciaries of a trust or estate, or foreign corporations and required to be shown on Form W–2, or in the case of income paid prior to January 1, 1972, on Form 1001 (or on any special variation of Form 1001 referred to in paragraph (i) of

§ 1.1461–1, or the substitute thereof) is not required to be shown on Form 1042S. However, a return under this subparagraph is required on Form 1042S (rather than on Form W–2) in respect of amounts which otherwise would be required to be shown on Form W–2 solely by reason of § 1.6041–2 (relating to return of information as to payments to employees) or § 1.6052–1 (relating to information regarding payment of wages in the form of group-term life insurance). The original Form 1042S shall accompany Form 1042 and shall be filed with the Internal Revenue Service Center, Philadelphia, PA 19255.

(2) *Information to be furnished.* (i) Form 1042S shall include such information as is required by the form and accompanying instructions.

(ii) If a Form 1042S is prepared in respect of an item of income upon which tax has not been withheld under chapter 3 of the Code, a brief statment as to the authority for such failure to withhold shall be made upon the form itself. If necessary, however, a separate statement as to such authority may be attached to the original copy of the Form 1042S.

(iii) If a Form 1042S is prepared in respect of compensation from which the personal exemption is deducted in accordance with paragraph (e) of § 1.1441–3, the amount of the compensation allocable to labor or personal services performed within the United States, together with the amount of the deduction for the prorated personal exemption, shall be shown on a separate statement attached to the original copy of that form

(iv) If any certificate, statement, letter, or form relating to an exemption (as described in § 1.1441–4) is filed with or presented to a withholding agent, such certificate, statement, letter, or form shall be attached to each Form 1042S relating to the income subject to the exemption.

(3) *Manner of preparing Form 1042S.* (i) Form 1042S shall be prepared with respect to all payments of any item of income made during the calendar year to the same payee in the manner prescribed by the form and accompanying instructions. Payment of an item of income to a nominee or representative for the benefit of other persons in respect of whom Form 1042S are required may not be shown on a single Forms 1042S but must be identified with the ultimate recipients of the income if such information is known to the payer of the income.

(ii) The duplicate copy of Form 1042S shall be furnished to the payee indicated thereon, and a copy shall be retained by the withholding agent.

(4) *Alternative methods.* To the extent that the withholding agent's system of record keeping makes impractical the use of Form 1042S in the manner prescribed by paragraph (c)(3) of this section, he may devise and submit for the prior annual approval of the Commissioner a variation of Form 1042S which will include the information required by paragraph (c)(2) of this section and which will substantially comply with the requirements of paragraph (c)(3) of this section. Request for such approval shall be sent to: Internal Revenue Service, Attn: Substitute Forms Program, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 and shall be accompanied by an explanation as to why such variation is necessary.

(d) *Information to be furnished by Commissioner.* If a foreign country has entered into an income tax treaty with the United States which provides for the mutual exchange of information, the Commissioner shall, as soon as practicable after the close of a calendar year during which the treaty is in effect, transmit to the appropriate authority designated in the treaty with that country the information contained in Forms 1042S showing a payee with an address in the country. This information is not to be furnished to any such foreign country, however, if the Commissioner ascertains through appropriate channels that the information is not required by that country.

(e) *Penalties.* For penalties and additions to the tax attaching upon failure to comply with this section, see sections 6651, 6656, 6676, and 7203.

* * * * *

§ 1.1461–3 [Amended]

Par. 10. Section 1.1461–3 is amended by removing the phrase "Director, Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, PA 19155," in the first sentence of paragraph (a)(1)(i) and in paragraph (a)(2) and inserting in lieu thereof the phrase "Internal Revenue Service, Center, Philadelphia, PA 19255,".

§ 1.1462–1 [Amended]

Par. 11. Section 1.1462–1(b) is amended by moving the word "his" in the last sentence and inserting in its place the phrase "the taxpayer's".

§ 1.1465–1 [Removed]

Par. 12. Section 1.1465–1 is removed.

Employment Tax Regulations

PART 31—[AMENDED]

Par. 13. Paragraph (a) of § 31.3401(a)(6)–1(a) is revised to read to set forth below.

§ 31.3401(a)(6)–1 Remuneration for services of nonresident alien individuals paid after December 31, 1966.

(a) *In general.* All remuneration paid after December 31, 1966, for services performed by a nonresident alien individual, if such remuneration otherwise constitutes wages within the meaning of § 31.3401(a)–1 and if such remuneration is effectively connected with the conduct of a trade or business within the United States, is subject to withholding under section 3402 unless excepted from wages under this section. In regard to wages paid under this section after February 28, 1979, the term "nonresident alien individual" does not include a nonresident alien individual treated as a resident under section 6013 (g) or (h).

* * * * *

Regulations on Procedure and Administration

PART 301—[AMENDED]

§ 301.7605–1 [Amended]

Par. 14. Paragraph (b) of § 301.7605–1 is amended by adding a sentence at the end thereof to read as follows: "The inspection of a taxpayer's books of account pursuant to the procedures of § 1.1441–4(b) (3) and (4) is not an inspection of a taxpayer's books of account for purposes of section 7605(b) and this section."

Par. 15. Section 301.7701–16 is revised to read as follows:

§ 301.7701–16 Other terms.

For a definition of the term "withholding agent" see § 1.1441–7(a). Any other terms that are defined in section 7701 and that are not defined in §§ 301.7701–1 to 301.7701–15, inclusive, shall, when used in this chapter, have the meanings assigned to them in section 7701.

This Treasury decision is issued under the authority contained in sections 1441(c)(4) (80 Stat. 1553; 26 U.S.C. 1441(c)(4)), 3401(a)(6) (80 Stat. 1554; 26 U.S.C. 3401(a)(6)), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954. Approved by the Office of Budget and Management under control number 1545–0795.

Approved: September 4, 1984.
Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.
Ronald A. Pearlman,
Acting Assistant Secretary of the Treasury.
[FR Doc. 84-24980 Filed 9-19-84; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Approval of Permanent Program Amendment From the State of West Virginia Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by West Virginia as an amendment to the State's permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes a program for blaster training, examination and certification.

West Virginia submitted the proposed program amendment on January 12, 1984. OSM published a notice in the Federal Register on January 31, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 3882-3883). The public comment period ended March 1, 1984. On June 18, 1984, the State submitted additional proposed regulations and other information to address certain issues raised during the review of the January 12, 1984, proposed amendment. These issues were presented to the State in letters from OSM dated March 9, April 5, and May 22, 1984 (Administrative Record Nos. WV 575, 579 and 580). A public comment period for this additional information was announced in the Federal Register on July 12, 1984 (49 FR 28418). The comment period for this additional information ended on July 27, 1984.

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, with certain exceptions and is approving it based on the correction of certain deficiencies. The Federal rules at 30 CFR Part 948 codifying decisions concerning the West Virginia program are being amended to implement this action.

EFFECTIVE DATE: September 20, 1984.

FOR FURTHER INFORMATION CONTACT: John Heider, Acting Field Office Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301; Telephone (304) 347-7158.

SUPPLEMENTARY INFORMATION:

I. Background

The West Virginia program was conditionally approved by the Secretary of the Interior on January 21, 1981 (46 FR 5915-5956). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the West Virginia program can be found in the January 21, 1981, Federal Register.

II. Submission of Revisions

On January 12, 1984, West Virginia submitted statute and regulations and other material which would establish requirements for the training, examination and certification of blasters working in surface coal mining operations. These materials were later supplemented by additional information submitted by the State on June 18, 1984. The proposed modifications include:

- Current surface mining law and regulations providing authority for a blaster training, examination and certification program;
- Proposed regulations governing the standards for certification of blasters, hereafter referred to as the June 18 proposed regulations;
- Current mining law providing authority and procedures for withdrawal of certification and penalties;
- Current regulations providing administrative procedures relating to appeals;
- Current mining regulations defining certain terms used throughout the proposed blaster program;
- Current regulations specifying safety training requirements for West Virginia miners;
- A proposed training outline for blaster training;
- A study guide for blaster training;
- A comparison of State and Federal regulations for blaster certification.

At the time of the Secretary's approval of the West Virginia program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in the notice announcing conditional approval of the West Virginia program, the Secretary specified that West Virginia would be required to adopt such provisions following promulgation of the Federal standards (46 FR 5931, January 21, 1981).

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training, examination and certification of blasters at 30 CFR Chapter M (48 FR 9488). The Federal rules require each State to design and implement its own blaster certification program. Under the Federal rules, each State must develop the method of training, examining, and certifying blasters which best meets local needs within the Federal regulatory framework. The Federal rules require training, field experience, and a written examination, and specify certain other requirements.

The Federal rules at 30 CFR 850.12 require the State regulatory authority to develop a program and submit it to OSM as a proposed program amendment within 12 months after the publication date of the Federal rules. The Federal rules at 30 CFR 616.61(c) further provide that no later than 12 months after the State's blaster certification program has been approved by OSM, all blasting operations in the State shall be conducted under the direction of a certified blaster.

On January 31, 1984, OSM, published a notice in the Federal Register announcing receipt of the West Virginia amendment and inviting public comment on whether the proposed amendment was no less effective than the Federal regulations (49 FR 3882-3883). The public comment period ended March 1, 1984. An opportunity to request a public hearing was provided, but none was requested.

On June 18, 1984, the State submitted additional proposed regulations and other information to address certain issues raised during the review of the January 12, 1984, proposed amendment. These issues were presented to the State in letters from OSM dated March 9, April 5, and May 22, 1984 (Administration Record Nos. WV 575, 579 and 580). A public comment period for this additional information was announced in the Federal Register on July 12, 1984 (49 FR 28418). The comment period for this additional information ended on July 27, 1984.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by West Virginia on January 12, 1984, as modified on June 18, 1984, meets the requirements of SMCRA and 30 CFR Chapter VII, with certain exceptions, as discussed below.

A. General

The West Virginia submission provides that the West Virginia Department of Mines, in accordance with Section 20-6-34 of the West Virginia Surface Coal Mining and Reclamation Act, will be responsible for the training, examination and certification of blasters within the State.

In it's letter of June 18, 1984, the State proposed that mandatory training as required by 30 CFR 850.13(b) could be accomplished by way of any of three methods. The first would be to attend the classroom training sponsored by the West Virginia Department of Mines and provided through the facilities of the State Vocational Education office as specified in the State's proposed regulations. The second method of satisfying the training provisions would be to conduct a self-study program using the "Study Guide for West Virginia Surface Mine Blasters". The third method would be to attend a certified blaster training session conducted by an explosives manufacturer. The applicant for certification would indicate on the application for the blaster certification exam which type of training he or she had received.

The Director has carefully considered these three options and finds that only the first method of training will satisfy the provisions of 30 CFR 850.13(b) at this time. The second option, self-study, is a viable alternative to classroom training. However, the self-study program must utilize training materials which will provide instruction in all areas required by 30 CFR 850.13(b) and the State must develop a procedure to verify that the self-study has actually been conducted. The Study Guide for West Virginia Surface Mine Blasters was reviewed by OSM and determined to lack instruction in several areas required by 30 CFR 850. These areas were addressed by the State in a pre-submission letter dated July 21, 1983 (Administrative Record Number WV 592). This letter provided that the topics not addressed by the Study Guide would be provided by the training course to be conducted by the State. This action resolved the issue as it related to the classroom training to be provided by the State. However, before the Director can approve the use of the State's proposed self-study program using the Study Guide alone, the Study Guide must be revised to provide coverage of all the topics of 30 CFR 850.13(b). The second concern with the self-study concept relates to verification that the applicant for certification has actually completed the required study. The procedure proposed by West Virginia requires only that the applicant indicate that he has completed the study. The State must revise the Study Guide and develop a system for verifying that self-study has occurred prior to certification of an individual under this concept. West Virginia may not use the proposed self-study procedures until the Study Guide for West Virginia Surface Mine Blasters is revised to include all of the topics included in 30 CFR 850.13(b), procedures are developed to verify that the self-study has been conducted and both have been reviewed and approved by the Director.

The third method of training proposed by West Virginia relates to completion of a training course presented by an explosives manufacturer. West Virginia may not accept training conducted by an explosives manufacturer until procedures have been developed by the State to certify that the training meets the requirements of 30 CFR 850.13(b), a process for verifying completion of the course is developed and both have been reviewed and approved by the Director.

B. West Virginia Administrative Regulations, Department of Mines, Chapter 22-4, Series , Rules and Regulations Governing the Standards for Certification of Blasters, Submitted June 18, 1984

1. Section 3.01(A) of the June 18 proposed regulations provides that no later than one year after the effective date of the regulations, a certified blaster will be responsible for the handling and use of explosives for each and every blast in accordance with the blasting plan approved for the permit. The requirements for approval of a blasting plan are contained in Section 4C.01 of the West Virginia Surface Mining Reclamation Regulations, Chapter 20-6 Series VII (1983) as approved by the Secretary on November 16, 1983. These regulations inappropriately relate the blasting performance standards including the blasting plan requirements, to blasts of more than five pounds of explosives or blasting agent. In addition, the blasting plan requirements of Section 4C.01 relate only to blasting operations on surface mines. The requirements do not apply to blasting operations conducted on underground mining operations. Therefore, the provision of 3.01(A) could be interpreted to apply only to blasting conducted on surface operations. The Director finds that this provision is less effective than the Federal regulations at 30 CFR Part 850 and is requiring a program amendment to provide that blaster certification requirements will apply to all blasting operations required by 30 CFR 850.

2. Section 3.01(A) of the June 18 proposed regulations specifies that persons seeking to become certified blasters must complete such training as required by the regulations. Section 3.01(B) provides that training requirements shall include those subject areas set forth in Section 5.02(A)(1) and 5.03(A)(1). The Director finds that the West Virginia regulation includes all the topics required by 30 CFR 850.13(b) and therefore is no less effective than the Federal rule.

3. Section 3.01(A) of the June 18 proposed regulations set forth the requirements necessary for a person to become a certified blaster. The regulations require that a person must: (1) have had at least one year active blasting experience within the past three years; (2) hold a current permit issued by the State Fire Marshall's Office; and (3) have demonstrated his knowledge and skill of the use, handling and storage of explosives and all State and Federal laws pertaining thereto by completing such training and certification examinations as may be required by the State regulations. Applicants will be examined by the West Virginia Department of Mines as set forth in Section 5.03. The Director finds that these provisions are no less effective than 30 CFR 850.14 which sets forth the minimum requirements for examination of candidates for blaster certification.

4. Sections 6 and 7 of the June 18 proposed regulations set forth the requirements for certification and recertification. Section 7.01 provides that a blaster must be recertified every three years by submitting validated documentation to the Department of Mines of conformance with the requirements of Section 3.01. The requirements of Section 3.01 are discussed in Finding 3 above. In addition, validated proof of one shift of refresher training within the previous 12 months must be submitted unless the applicant has completed one year of active blasting experience within the previous 12 months. Applicants for recertification must also meet the conditions of certification specified in Section 6.01 of the regulations. Reexamination of a certified blaster is

required following the second consecutive certification. The Director finds that these provisions are no less effective than the Federal rules at 30 CFR 850.13(a) and 850.13(c).

5. Section 8.01 of the June 18 proposed regulations specifies that a blaster shall, upon request by an authorized representative of the Division of Reclamation, West Virginia Department of Natural Resources, the West Virginia Department of Mines or OSM, exhibit his or her certificate and that certified blasters shall take every reasonable precaution to protect their certificates from loss, theft, or unauthorized duplication. Any such occurrence shall be reported immediately to the Department of Mines. Section 8.02 specifies that a blaster's certification shall not be transferred or assigned. Section 8.03 specifies that blasters shall not delegate their authority or responsibility to any individual who is not a certified blaster. The Director finds these provisions to be no less effective than 30 CFR 850.15(d) and 850.15(e), which specify conditions of certification and requirements for the protection of certification.

6. Part 3 of West Virginia Administrative Regulations, Department of Mines, Chapter 22–4, Series 34 (1982) sets forth the provisions applicable to proceedings initiated to withdraw a blaster's certification. The regulation provides that the Board of Appeals of the West Virginia Department of Mines, following written notice and opportunity to respond, will evaluate all charges and, if appropriate, schedule a hearing. At the conclusion of the hearing, if the Board finds that the certification should be suspended or revoked, it shall enter an order to that effect. Section 8.04 of the June 18 proposed regulations provides that proceedings may be initiated to withdraw certification for neglect or failure to perform duties mandated by Articles 1 and 2 of Chapter 22 of the West Virginia Code, regulations promulgated thereto; Article 6, Chapter 20 of the West Virginia Code and regulations promulgated thereto or the June 18 proposed regulations. Section 22–1–20(d) of the West Virginia Code provides that whoever knowingly makes any false statement, representation or certification in any application shall be guilty of a misdemeanor. The conviction of any person under this provision shall result in the revocation of any certification. The Director finds these provisions no less effective than 30 CFR 850.15 (b)(1)(i), (h)(1)(iii), (b)(1)(ii), (b)(2), and (b)(3).

7. Section 6.01(B) of the June 18 proposed regulations provides that addiction to alcohol, narcotics or other dangerous drugs shall cause any blaster's certification already in force to be suspended or revoked. The Director finds that this provision is less effective than 30 CFR 850.15(b)(1)(ii) and is requiring a program amendment to provide for suspension or revocation of a blaster's certification for unlawful use of alcohol, narcotics or other dangerous drugs in the work place.

8. The West Virginia amendment fails to require that the blasting crew or others who assist in the use of explosives and are not certified blasters, receive direction and on-the-job training from a certified blaster as required by 30 CFR 850.13(a)(2). The Director finds that the lack of this provision is not as effective as 30 CFR 850 and is requiring a program amendment to include this provision.

IV. Public Comments

Pursuant to Section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), of those Federal agencies invited to comment, acknowledgements were received from the Department of the Army, Office of the Chief of Engineers; the Department of Energy; the Department of the Interior, Bureau of Land Management and the National Park Service; and, the Department of Labor, Mine Safety and Health Administration. The comments were limited and did not identify any deficiencies in the proposed program amendment. The only additional public comment was received from the West Virginia Surface Mining and Reclamation Association. Their comment consisted of a copy of an article which appeared in an industry publication concerning an address made by Mr. Bill Raney of the Association. The address contained no substantive comments concerning the West Virginia blaster certification program.

The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the January 12, 1984, amendment, as modified on June 18, 1984, to the West Virginia program. As indicated above, there are three provisions which are less effective than SMCRA and the Federal regulations and require revision. These provisions are discussed in Findings B.1., B.7. and B.8. above. These provisions must be corrected by the State and submitted as a program amendment by [60 days following publication]. In addition, two methods for satisfying the training provisions of 30 CFR Part 850, as discussed in Finding A. above may not be utilized until the State makes the necessary revisions and they are approved by the Director. The Director is amending Part 948 of 30 CFR Chapter VII to implement this decision.

VI. 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 No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exempt 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 exemption 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 948

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

Dated: September 14, 1984.

John D. Ward,

Acting Director, Office of Surface Mining.

PART 948—WEST VIRGINIA

1. 30 CFR Part 948 is amended by adding a new § 948.15 as follows:

§ 948.15 Approval of regulatory program amendments.

(a) The following amendment submitted to OSM on January 12, 1984, as modified on June 18, 1984, is approved effective September 20, 1984: West Virginia's blaster certification program, as contained in the proposed West Virginia Administrative Regulations, Department of Mines,

Chapter 22-4 Series ——, submitted to OSM on June 18, 1984, and all other items as submitted by West Virginia on January 12, 1984, and modified on June 18, 1984. This approval is contingent on promulgation of the above referenced proposed regulations.

(b) [Reserved]

2. 30 CFR Part 948 is amended by adding a new § 948.16 as follows:

§ 948.16 Required program amendments.

Pursuant to 30 CFR 732.17, West Virginia is required to submit the following program amendments by November 19, 1984:

(a) Amend its program to require that all persons responsible for the use of explosives on or after 12 months following September 20, 1984, shall be certified in accordance with 30 CFR 850.12(b).

(b) Amend its program to provide that a blaster's certification may be suspended or revoked for unlawful use of alcohol, narcotics or other dangerous drugs in the work place as required by 30 CFR 850.15(b)(1)(ii).

(c) Amend its program to require that the blasting crew or others who assist in the use of explosives and are not certified blasters, receive direction and on-the-job training from a certified blaster as required by 30 CFR 850.13(a)(2).

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

[FR Doc. 84-24913 Filed 9-19-84; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD3-84-37]

Special Anchorage Area; Thames River, New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Superintendent, U.S. Coast Guard Academy, the Coast Guard is establishing a special anchorage area just north of the causeway leading to the Academy Sailing Center at Jacobs Rock, Thames River, New London, Connecticut. During the sailing season, the Academy has insufficient dock space to accommodate all of its boats. This situation has resulted in the mooring of some boats to mooring buoys in the area being designated as a special anchorage area. This area has been used for this purpose for the past four years. This area is well away from the navigational channel and not within the normal area of recreational navigation on the Thames River due to its position directly adjacent to the Jacobs Rock causeway. The establishment of this special anchorage area should not create any safety, security or environmental hazards. The effect of this action will eliminate the requirement for displaying anchor lights by Academy and Academy-related boats, which generally use this area as an anchorage or mooring area during the sailing season.

EFFECTIVE DATE: October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. R.F. Valderrama, Ports and Waterways Specialist, Commander (mpv-p), Third Coast Guard District at (212) 668-7179.

SUPPLEMENTARY INFORMATION: On July 12, 1984 the Coast Guard published a notice of proposed rulemaking in the Federal Register for these regulations (49 FR 28419). Interested persons were requested to comment and no comments were received. Accordingly, no changes have been made to the rule as proposed.

Drafting Information

The drafters of this regulation are Mr. R.F. Valderrama, Ports and Waterways Specialist, project officer for Commander (mpv-p), Third Coast Guard District, and Mrs. M.A. Arisman, project attorney, Third Coast Guard District Legal Office.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The major purpose for the special anchorage area is to officially recognize the long-standing use of this area by Academy boats. Since primarily Academy or Academy-related boats will use this area, and since the location of the area is well out of the normal navigation area of the river, this special anchorage area will have little or no economic impact on the general public. It will have a slight economic impact on Academy operations, since the elimination of lighting requirements for boats at anchor will slightly reduce the cost of the Academy sailing program.

Since the impact 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 110

Anchorage grounds.

Final Regulations

PART 110—[AMENDED]

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by adding § 110.52(c) and Note to read as follows:

§ 110.52 Thames River, New London, Conn.

* * * * *

(c) Area No. 3. An area on the westerly side of the Thames River in the vicinity of Jacobs Rock, the location of the U.S. Coast Guard Academy Sailing Center, bounded as follows: Beginning at the point on the shore where the north side of the Jacobs Rock causeway meets the western shoreline; thence northerly along the western shore of the Thames River a distance of 200 yards: thence 090°, 240 yards; thence 180°, 200 yards to the Jacobs Rock causeway; thence westerly along the causeway to the point of beginning.

Note.—The area designated by paragraph (c) of this section is principally for the use of U.S. Coast Guard Academy and Academy-related boats. Temporary floats or buoys for marking anchors may be used. The anchoring of vessels and the placing of moorings will be under the jurisdiction and at the discretion of the Chief, Waterfront Branch, U.S. Coast Guard Academy, New London, Connecticut.

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

Dated: September 14, 1984.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84-24943 Filed 9-19-84; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 1-84-10R]

Drawbridge Operation Regulation; Acushnet River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the New Bedford Area Chamber of Commerce, the Coast Guard is changing the regulations for the Route 6 bridge over the Acushnet River, between New Bedford and Fairhaven. This change is being made because frequent openings of the drawspan result in a backup of vehicles along Route 6, a major roadway in the area. These backups have a

significant impact on the businesses located along the roadway in the vicinity of the bridge. This action will establish more uniform vehicular traffic movement along Route 6, and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: October 22, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: Notification of the proposed rulemaking was published by the First Coast Guard District in a public notice on 8 May 1984, and in the Federal Register (49 FR 19848). Interested persons were given until 25 June 1984 to respond.

Drafting Information

The principal persons involved in drafting this rule are: William J. Naulty, Chief, Bridge Branch, First Coast Guard District; and Lieutenant Commander James M. Collin, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Comments

There were 12 responses to the public notices. Four responses indicated acceptance of the proposed regulations as published. Seven responses indicated an adverse impact to the seafood industries located upstream of the bridge. The Massachusetts Department of Public Works, owner of the bridge, was critical of the 15 minute maximum time suggested for each opening.

The seafood industries are dependent on the movement of vessels with drafts greater than 15 feet. The passage of these vessels through the bridge depends on the tide. If a tide is missed because the draw is closed a vessel would have to remain in the harbor until the next favorable tide. The current regulations require that the draw be opened on call for the passage of larger vessels. To minimize impact on these vessels the requirement for on call openings for larger vessels has been added to the proposal.

When the bridge is opened, there is a backup of vehicles in each direction. The extent of the backup is determined by the length of time or the frequency of the openings. A scheduled hourly opening will provide for the passage of vessels and also allow adequate movement of vehicular traffic.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The amended regulations are not expected to change the volume of traffic along Route 6. They are expected to improve access to and egress from the various business establishments in the vicinity of the bridge. The improved traffic pattern will permit shopping at any hour instead of off peak hours. The regulations provide minimal interruption to navigation. This will not hamper the operation of the marine oriented businesses located above the drawbridge. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Lists of Subjects in CFR Part 117

Bridges.

PART 117—[AMENDED]

Final Regulation

In consideration of the foregoing, Part 117 of Title 33 Code of Federal Regulations is amended by revising § 117.585, as follows:

§ 117.585 Acushnet River.

(a) The drawspan will be opened promptly, provided proper signal is given, on the following schedule:

(1) On the hour between 6:00 a.m. and 10:00 a.m. inclusive;

(2) At a quarter past the hour between 11:15 a.m. and 6:15 p.m. inclusive.

(3) At all other times on call.

(b) The draw will be opened at any time for vessels whose draft exceeds 15 feet, for vessels owned or operated by the U.S. Government, the State of Massachusetts, or by local authorities.

(c) Each opening of the draw, from the time vehicular traffic flow is stopped until the flow resumes, shall not exceed 15 minutes except for vessels whose draft exceeds 15 feet or in extraordinary circumstances.

(d) The Massachusetts Department of Public Works shall keep posted in a conspicuous location on the upstream and downstream sides of the bridge, where it can be read easily at any time, a copy of the regulations in this subpart.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3)).

Dated: September 4, 1984.

R.A. Bauman,

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

[FR Doc. 84-24345 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Hampton Roads, VA, Reg. 84-10]

Safety Zone Regulations; Entrance to Chesapeake Bay, Thimble Shoals Channel, Fort Story, Cape Henry, VA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters off Fort Story, Cape Henry, Virginia, near the southern entrance to the Chesapeake Bay. This zone is needed to protect watercraft and their occupants from potential hazards associated with Joint Service Military Operations involving numerous military and civilian vessels, floating and submerged pipelines, and temporary pier installations. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 7:00 AM, Eastern Daylight Time, September 18, 1984. It terminates at 6:00 PM Eastern Standard Time, October 30, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander D.A. Sande, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510, (804) 441-3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants from the hazards associated with military vessel operations scheduled for the waters off Fort Story, Cape Henry, Virginia.

Drafting Information

The drafter of this regulation is Lieutenant J. J. Kelly, project officer for the Captain of the Port.

Discussion of Regulation

The hazard requiring this regulation is expected to commence on 18 September 1984 at 7:00 AM and terminate at 6:00 PM on 30 October 1984. In order to safeguard watercraft and their

occupants, no person may enter into, remain in, or operate any vessel within this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia.

List of Subjects in 33 CFR Part 165

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

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T544 to read as follows:

165.T544 Safety Zone: Chesapeake Bay, Thimble Shoals Channel, Fort Story, Cape Henry, Virginia.

(a) *Location.* The following area is a safety zone: All waters within a one and one-eighth mile radius of the Cape Henry Lookout Tower located at 36–55–48 N, 76–01–56 W.

(b) Regulations:

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

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: September 14, 1984.

U.S. Coast Guard.

D.C. O'Donovan,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 84-24946 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-2673-8]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a consolidated permit and emissions trading program for the Lane Regional Air Pollution Authority (LRAPA) as revisions to the Oregon State Implementation Plan (SIP). This program, consisting of amended LRAPA rules, in conjunction with provisions of the State of Oregon Department of Environmental Quality (DEQ) rules, is the same as the current, EPA-approved program operated by DEQ. These amended rules were submitted on March 2, 1983 by DEQ, after adequate opportunity for public, private, and industry input, to transfer the permitting programs required under Sections 110, Part C, Subpart 1, and Part D of the Clean Air Act (hereinafter the Act) and the emissions trading program to LRAPA. EPA's approval authorizes LRAPA, rather than DEQ, to issue all of the permits required under the Act and to approve emissions trading transactions within the boundaries of Lane County.

EFFECTIVE DATE: This action will be effective on November 19, 1984 unless notice is received before October 22, 1984 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal thirty-day comment period on this action.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, 522 SW. Fifth, Yeon Building, Portland, Oregon 97207

Copy of the State's submittal may be examined at:

The Office of Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Comments should be addressed to: Laurie M. Krahl Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-1980, (FTS) 399-1980.

SUPPLEMENTARY INFORMATION:

I. Background

On August 13, 1982 (47 FR 35191) EPA approved a consolidated permit and emissions trading program for the State of Oregon. This program was incorporated in the rules of the Oregon Department of Environmental Quality (DEQ) and was applicable statewide. On March 2, 1983, DEQ submitted amended rules of the Lane Regional Air Pollution Authority (LRAPA), a local air pollution agency in Lane County, as revisions to the SIP in order to transfer the authority to administer the approved permit and emissions trading program to LRAPA.

II. Plan Revisions

The submitted LRAPA rule revisions consist of: (1) An amended Title 22 "PERMITS," specifically, revisions to Sections 22-001 through 22-065, new Sections 22-400 through 22-440, and new definitions which will be relocated into Title 11 "DEFINITIONS" at a later date; and (2) new Sections 32-100 through 32-104 of Title 32 "EMISSION STANDARDS," and new definitions which will be relocated into Title 11 "DEFINITIONS" at a later date. The new Sections 22-400 through 22-440 contain the provisions for Prevention of Significant Deterioration permits, nonattainment area permits, offsets, and emission reduction credit banking. The new Sections 32-100 through 32-104 contain the provisions for plant site emission limits and alternative emission controls (bubbles). The LRAPA rules do not duplicate certain provisions of the DEQ rules, specifically: EPA approval of modified or alternate models; provisions for fugitive and secondary emissions; provisions for stack heights and dispersion techniques; ambient air quality standards; PSD increments; PSD Class I areas; and PSD redesignation procedures. Therefore, the statewide DEQ rules for these provisions remain applicable in Lane County and will be utilized in the LRAPA program.

As with the DEQ rules, the LRAPA definitions of the terms "dispersion technique," "good engineering practice stack height," and "nonattainment area" do not satisfy EPA requirements. Therefore, in order to be consistent with the August 13, 1982 approval of the DEQ rules, EPA is: (1) Taking no action at this time on the definitions of "dispersion technique" and "good engineering practice stack height" (EPA will take action on revised definitions when LRAPA rules implementing Section 123 of the Act are submitted); and (2) approving the permit rules with the understanding that LRAPA will adopt, and DEQ will submit to EPA, a revised definition of "nonattainment area". Also, the LRAPA permit rules would include marine vessel emissions in the review of new or modified major sources and, as with the DEQ rules, EPA is deferring action on the permit rules to the extent that they apply to marine vessel emissions.

Finally, the LRAPA definition of "major modification" does not contain a provision for netting transactions which would ensure that creditable decreases have the same qualitative significance for public health and welfare as

proposed increases (40 CFR 51.24(b)(3)(vi)(c)). However, EPA has recently proposed to rescind this provision, which would make the LRAPA rules approvable (48 FR 38742, August 25, 1983). As such EPA is proposing to approve the LRAPA rules with the understanding that (1) if, after EPA rulemaking is completed, the provision has not been rescinded, LRAPA will submit a revision to its rules to add such a provision, and (2) until such time as the EPA provision is rescinded, LRAPA will operate its program consistent with the EPA provision.

These issues are discussed further in a Technical Support Document which is contained in the docket for this rulemaking and is available at the locations listed in the "ADDRESSES" section.

Under this program, Lane County will be issuing permits and establishing emission limitations that may be affected by the current judicial review of stack height regulations promulgated by EPA on February 8, 1982 (47 FR 5864). For this reason, EPA has requested that the state include the following caveat in all potentially affected permit approvals until the judicial process is completed and the stack height regulations either upheld by the court or revised by EPA:

> In approving this permit, Lane Regional Air Pollution Authority has determined that the application complies with the applicable provisions of the stack height regulations promulgated by EPA on February 8, 1982 (47 FR 5864). Portions of these regulations have been overturned by a panel of the U.S. Court of Appeals for the D.C. Circuit. *Sierra Club* v. *EPA*, 719 F.2d 436 (D.C. Cir., 1983). That court decision has been appealed to the U.S. Supreme Court by a group of affected industries. Consequently, this permit may be subject to modification when the judicial process is completed and any regulations revised in response. This may result in revised emission limitations or may affect other actions taken by the source owners or operators.

Lane County made an enforceable commitment to include this caveat in all affected permits by letter dated June 20, 1984. This letter is part of the SIP revision EPA is approving today.

III. Summary of Action

EPA views as noncontroversial and routine the approval of local agency programs which are the same as the state agency programs in the Federally-approved SIP. EPA today is therefore approving, without prior proposal, the following as revisions to the Oregon SIP:

(1) Title 22 "PERMITS" of the Lane Regional Air Pollution Authority Rules, submitted on March 2, 1983, except to the extent that they apply to marine vessel emissions and except the definitions of "dispersion technique" and "good engineering practice stack height". This approval is made with the understanding that LRAPA will adopt, and DEQ will submit, a revised definition of "nonattainment area" which includes areas designated under section 107(d) of the Act; and

(2) Title 32 "EMISSION STANDARDS" Sections 32-100 through 32-104 of the Lane Regional Authority Rules, submitted on March 2, 1983.

Through this approval action, EPA recognizes that only LRAPA permits, issued pursuant to the Federally-approved Permits rule and in conjunction with the Federally-approved DEQ rules, are necessary for the construction, operation or modification of stationary sources in Lane County as required by section 110, Part C, Subpart 1 (PSD) and Part D (pertaining to nonattainment areas) of the Act. Furthermore, EPA recognizes that most LRAPA permits, issued pursuant to the Federally-approved Permits and Plant Site Emission Limit rules and in conjunction with the Federally-approved DEQ rules, are revisions to the Federally-approved SIP which are enforceable by EPA at the time of permit issuance and do not require case-by-case EPA approvals. This includes all emissions trading actions (netting, offsets, banking and bubbles) except Alternative Emission Controls (Bubbles) for sulfur dioxide or total suspended particulates which involve trades where the sum of the increases in emissions exceeds 100 tons per year.*

The public should be advised that this action will be effective on November 19, 1984. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on those revisions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on those revisions and another will begin a new rulemaking by announcing a proposal of the action on those revisions and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under sections 110, 161, and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "major". It has been submitted to the Office of Management and Budget (OMB) for review.

(Sec. 110(a), 160 to 169, 171 to 173, and 301(a) of the Clean Air Act (42 U.S.C. 7410(a), 7470 to 7479, 7501 to 7503, and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Intergovernmental relations.

Dated: September 13, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Federal Register on July 1, 1982.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. In § 52.1970, paragraph (c)(62) is added as set forth below:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(62) Title 22 "PERMITS" of the Lane Regional Air Pollution Authority Rules, except to the extent that they apply to marine vessel emissions and except the definitions of "dispersion technique" and "good engineering practice stack height", and Title 32 "EMISSION STANDARDS" Sections 32-100 through 32-104 of the Lane Regional Authority Rules, submitted by the State Department of Environmental Quality on March 2, 1983; clarifying letter dated June 20, 1984.

2. Section 52.1987 is amended by designating the existing paragraph as (a) and adding paragraph (b) as follows:

§ 52.1987 Significant deterioration of air quality.

* * * * *

(b) The Lane Regional Air Pollution Authority rules for permitting new and modified major stationary sources (Title

* EPA is currently reassessing whether emissions trading rules, that it has already approved—like Oregon's, are consistent with EPA's emissions trading policies. The Agency may, in the future, take action to remedy any inconsistencies that it discovers. EPA believes, however, that during this interim reassessment period it may approve local rules that are the same as the statewide trading rules already in the EPA-approved SIP, regardless of potential inconsistencies between the statewide rules and current EPA emissions trading policies, because approval of those local rules would not substantively change the SIP.

22 PERMITS) are approved, in conjunction with the Oregon Department of Environmental Quality rules, in order for the Lane Regional Air Pollution Authority to issue prevention of significant deterioration permits within Lane County.

3. Section 52.1988 is amended by designating the existing paragraph as (a) and adding paragraph (b) as follows:

§ 52.1988 Air contaminant discharge permits.

* * * * *

(b) Emission limitations and other provisions contained in Air Contaminant Discharge Permits issued by the Lane Regional Air Pollution Authority in accordance with the provisions of the Federally-approved Permits rule (Title 22) and Plant Site Emission Limit rules (Title 32, Sections 32–100 through 104) and in conjunction with the Federally-approved DEQ rules, except alternative emission limits (bubbles) for sulfur dioxide or total suspended particulates which involve trades where the sum of the increases in emission exceeds 100 tons per year, shall be the applicable requirements of the Federally-approved Oregon SIP (in lieu of any other provisions) for the purposes of Section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

[FR Doc. 84-24753 Filed 9-19-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 710

Toxic Substances Control Act; Inventory Reporting Regulations

[OPTS-211013; FRL-2674-5]

Denial of Citizen's Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of Citizen's Petition.

SUMMARY: This notice announces EPA's decision to deny a citizen's petition submitted by the Society of the Plastics Industry (SPI) under section 21 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2620). SPI requested that EPA amend its Inventory reporting rule (40 CFR Part 710) by deleting the designation of inorganic glasses as mixtures and by excluding from the Inventory a category of substances SPI calls structural polymers (which would include inorganic glasses) by classifying them as not being chemical substances, *per se*, for purposes of the Inventory. EPA has concluded that available information does not support the requested amendments and that such amendments are procedurally inappropriate for the relief sought. Therefore, EPA is denying SPI's petition.

ADDRESS: Copies of the petition and all related information are located in: Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-107, 401 M St., SW., Washington, D.C. 20460.

They are available for review and copying from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll Free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 8(b) of TSCA requires EPA to "compile, keep current, and publish a list of each chemical substance which is manufactured or processed in the United States." Substances which do not appear on this list are subject to premanufacture notification (PMN) under section 5(a) of TSCA. EPA promulgated a rule, published in the Federal Register of December 23, 1977 (42 FR 64572) (40 CFR Part 710), which, among other things, required certain persons to report their activities as manufacturers, importers, or processors of chemical substances in U.S. commerce, except those substances specifically excluded from reporting by the rule or TSCA. From this reporting EPA compiled the list of chemical substances referred to as the TSCA Chemical Substances Inventory (hereafter the Inventory).

Section 710.4 of the Inventory reporting rule excluded several general categories of chemical substances from reporting for, and thus from listing on, the Inventory. EPA indicated that these substances would also be excluded from PMN requirements. Among these were: (1) mixtures of chemical substances (40 CFR 710.4(c)(2)) and (2) chemical substances which were not manufactured or processed for distribution in commerce as chemical substances, *per se*, and which had no commercial purpose separate from the substance, mixture, or article of which they may be a part, including imported articles as well as substances formed incidental to the manufacture, processing, or storage of other substances (40 CFR 710.4(d) (1) through (8)). When EPA promulgated the PMN reporting rule in 1983, it concluded that substances thus excluded from the Inventory would not be subject to PMN requirements (see 40 CFR 720.30).

On June 15, 1984, SPI petitioned EPA under section 21 of TSCA to amend the Inventory reporting rule by: (1) modifying the note at 40 CFR 710(c)(2) to delete inorganic glasses from the rule's illustrative list of mixtures, and (2) adding a paragraph (9) to 40 CFR 710.4(d) to exclude from Inventory reporting a category of substances that SPI calls structural polymers, which would include inorganic glasses.

The SPI petition proposes that the requisite characteristic properties of structural polymers be high molecular weight, water insolubility, thermoplasticity, non-reactivity in use, and end use application as an element of manufactured items.

SPI contends that commercial inorganic glasses and the other substances in SPI's structural polymer category have similar structural and end use characteristics and should be treated in a like manner for purposes of the Inventory reporting rule and PMN reporting. Most of the substances that comprise SPI's proposed structural polymer category (other than inorganic glasses) were subject to reporting under the Inventory reporting rule and are subject to PMN requirements if they are not on the Inventory.

Commercial inorganic glasses were designated as mixtures in the rule and thus were exempt from reporting for and listing on the Inventory. However, the components of such mixtures were required to be reported under the rule. Mixtures are defined at 40 CFR 710.2(g) as "any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction." Further, mixtures include combinations of substances that occur as a result of a chemical reaction if none of the substances comprising the combination is a new chemical substance and if the combination could have been commercially manufactured without a chemical reaction at the time of the combination. Mixtures are also exempt from PMN requirements (see 40 CFR 720.30(b)). SPI asserts in its petition that EPA erred in designating inorganic glasses as mixtures for purposes of the Inventory and failed to provide technical justification to support that designation.

SPI also asserts that substances included in its structural polymer category should be excluded from the Inventory because they are not chemical

substances, *per se*, for purposes of the Inventory. SPI contends that structural polymers are not produced for commercial purposes separate from their end use as elements of manufactured items which, SPI believes, sets them apart from other substances on the Inventory.

II. Decision

EPA has reviewed the SPI petition and its supporting materials and has concluded that the Agency did not err in categorizing commercial inorganic glasses as mixtures and the thermoplastic polymers in SPI's structural polymers category as reportable chemical substances for purposes of the Inventory reporting rule, for the reasons set forth below.

SPI has failed to provide the Agency with sufficient evidence indicating either that commercial inorganic glasses should not be considered mixtures for purposes of the Inventory reporting rule and PMN requirements or that such glasses would be more accurately categorized as chemical substances, i.e. thermoplastic polymers. EPA believes that there was significant evidence supporting the Agency's classification of glasses as mixtures at the time the Inventory reporting rule was promulgated, that no new developments, discoveries, or data have been presented to the Agency to cause it to alter its position, and that, therefore, the preponderance of available evidence continues to support the Agency's position.

Contrary to SPI's assertions, glasses are customarily considered to be mixtures by the industry and in relevant scientific literature (Refs. 6, 7, and 8). Also, for example, the Encyclopedia of polymers Science and Technology (Ref. 9), a comprehensive compilation of polymers materials, lists no entry under glass and in a discussion about reinforcing fibers states that glasses "can be regarded as supercooled liquids." The SPI petition does not offer significant evidence to the contrary. The Agency believes that the few sources cited in SPI's petition, and several others located in the Agency's research, use the term polymer only in its broadest sense and for descriptive purposes in reference to the three dimensional structure of glass. These comparisons alone cannot reasonably be employed to support SPI's position that glass has the structural, physical, and chemical properties associated with chemical substances like commercial organic thermoplastic polymers. The Agency believes that the sources cited in the SPI petition are less compelling than the numerous sources that support the view that inorganic glasses are mixtures and lend little support to SPI petition that inorganic polymers should be classified with thermoplastic polymers.

EPA believes that commercial inorganic glasses satisfy both the generally-accepted definition of mixtures and the definition at 40 CFR 710.2(q) of the Inventory reporting rule. In addition, glasses exhibit significantly different properties than thermoplastic polymers, particularly in the way that each is formed and in their respective structures and physical and chemical properties.

Glasses and thermoplastic polymers are formed by different processes. Commercial glasses are typically formed when a network former, such as silica (SiO_2), is melted at very high temperatures, for example in excess of 1200° C for silica. In the molten state, the three dimensional network stucture of silica loosens or opens up through the rupturing of the network's bonds. The oxides of one or more metal or other element are added to the melt, go into solution, and are mixed or dispersed throughout the silica. The result is a uniform distribution at the molecular or ionic level of these substances in the silica network; this is the primary basis for the generally accepted concept that glass is a mixture of oxides that have been brought into mutual solution in the process of melting. What is formed is a true solution which is converted to the "glassy" state when the molten mix is cooled rapidly.

A thermoplastic polymer is typically formed by a chemical reaction that involves the condensation or addition of organic substances capable of combining with one another to form molecular chains of varying lengths. These reactions exhibit characteristics of typical chemical reactions in that they may involve significant changes in enthalpy, form byproducts, be accompanied by side reactions, and require the use of initiators, catalysts, and other components. The result is a chemical substance, *per se*.

The structures of glass and thermoplastic polymers are fundamentally different. Glass, as it is being formed in the molten state, is a three-dimensional network consisting of atoms of metals, oxygen, and other elements. It cannot be represented by a specific molecular formula of the constituent elements. Molten glass exhibits mixed bonding, with ionic and covalent bonds that are continuously ruptured and reformed because of the high level of thermal vibrational energy. When the molten glass is converted to the glassy or solid state, ruptured bonds in the silica network are permanently reformed. In the glassy state, the network becomes rigid, imparting to the glass the properties of a solid at normal temperatures. The atoms remain uniformly dispersed in the three dimensional network.

Thermoplastic polymers typically consist of linear chains of carbon atoms of varying length and molecular weight. They are organic molecules of definite composition that have been formed in a polymerization reaction. The carbon atoms in the chain are covalently bonded to one another. There are no cross-linkages between the chains of a thermoplastic polymer.

Glasses are non-stoichiometric combinations of the oxides used in their manufacture. Therefore, like other mixtures, the relative concentrations of the components of glass can be varied endlessly within the limits of the mutual solubilities of the oxides. Because of this, the physical properties of glasses are continuously variable. For example, a different glass with different physical properties results when an additional amount of an oxide of a metal or other element is added to a molten glass. By contrast, the arrangement or ordering of precursor molecules in a polymer chain and the properties of a commercial thermoplastic polymer are fixed once the chemical reaction involved in the synthesis of the polymer is complete.

The bonds in solid glass are very stable at normal temperatures, but when glass is melted bonds are ruptured and the glass becomes fluid and flows readily. On the other hand, the flow properties of thermoplastic polymers are due to the fact that above some temperature individual molecules can overcome intermolecular attractions and slide past one another. Under pressure the polymer can be molded or formed as desired. Therefore, it is clear that the mechanisms responsible for the flow properties of glass and thermoplastic polymers are different and that no common property of "thermoplasticity" can validly be employed to establish a close relationship between the two distinctly different classes of materials, as is suggested by SPI's petition.

In addition, EPA finds no factual evidence in the petition supporting SPI's contention that structural polymers should be classified as not being chemical substances, *per se*, for purposes of the Inventory under 40 CFR 710.4(d). Unlike the substances excluded from reporting for and listing on the Inventory under § 710.4(d), the substances in SPI's structural polymer category are chemical substances or

mixtures produced with specific commercial intent and sold in commerce as chemical substances or mixtures. Further, the Agency does not agree with SPI's contention that the substances in its structural polymer category are unique simply because they are produced for no commercial purpose separate from their end use as elements of manufactured items. Numerous chemical substances that were reported for the Inventory and that do not fall within SPI's structural polymer category exhibit a similar characteristic. The Agency did not classify substances under § 710.4(d) for administrative expediency, as is implied in SPI's petition.

Also, EPA believes that even if the factual assertions in SPI's petition regarding whether glasses are "structural polymers" and not mixtures and such structural polymers should be removed from the Inventory were correct, the remedy sought by the petition is inappropriate for several reasons. First, EPA has concluded that the sole TSCA effect of SPI's petition would be to exempt the substances in SPI's structural polymer category from the PMN requirements of section 5 of TSCA (This conclusion is supported by comments on the SPI petition received from the Man-Made Fiber Producers Association). Indeed, the Agency would also need to amend the language of the final PMN rule (40 CFR 720.30), that presently does not exclude structural polymers from PMN reporting, to parallel any changes in the Inventory reporting rule. Exempting substances from PMN is properly accomplished through the provisions of section 5(h) of the Act, which provides specific guidelines and requirements for considering substances for exemptions, rather than through an amendment to the Inventory reporting rule. EPA has recently reviewed a broader class of polymeric substances for a section 5(h)(4) exemption and has pending a final rule which would exempt a substantial number of substances in SPI's structural polymer category from full PMN reporting requirements.

Secondly, the Inventory reporting rule, which SPI seeks to have amended, set forth procedures for reporting for the Inventory. Reporting ended more than 5 years ago. EPA will not retroactively modify the reporting procedures of a final rule if the amendments would have no effect on such reporting, and SPI admits in its petition that the changes it proposes would not likely result in any changes to the Inventory chemical substances listings.

Finally, even if its factual assertions were correct and its procedural remedy were appropriate, amending the Inventory reporting rule in the manner SPI requests would do little to achieve SPI's stated goal of reaching a resolution which "formally recognizes and documents the understanding that structural polymers do not have the potential to pose unreasonable risks." Regardless of the accuracy of that statement, decisions relating to reporting for or listing on the Inventory under the reporting rule were not based on assessments of potential risk, whereas consideration of risk is essential to a PMN exemption under section 5(h)(4). Therefore, the only things at issue in this petition are factual questions regarding whether commercial inorganic glasses and organic structural polymers were appropriately categorized for purposes of the Inventory and procedural issues regarding the appropriateness of SPI's requested remedy.

Accordingly, SPI's petition for amendments to the TSCA Inventory reporting rule is denied.

III Record for the Petition

The following documents constitute the record for this action:

(1) SPI Petition to EPA, dated July 5, 1984.
(2) Amendment to SPI Petition, dated August 9, 1984.
(3) Official Rulemaking Record from "Inventory Reporting Regulations," published in the Federal Register of December 23, 1977 (42 FR 64572).
(4) Record of Meeting with Chemists from Corning Glass, July 2, 1984.
(5) Public Comments on the Petition.
(6) "Chemistry of Glasses," A. Paul, London, Chapman and Hill, 1982.
(7) "Modern Glass Practice," S.R. Scholes, Boston, Cahner's, 1975.
(8) "Encylopedia of Technology," Vol. 11, Kirk-Othmer, New York, John Wiley and Sons, 1980.
(9) "The Encyclopedia of Polymer Science and Technology," Bikales, New York, Interscience, 1976.

These references are available in room E-107 for review and copying from 8 a.m to 4 p.m., Monday through Friday, except legal holidays.

List of Subjects in 40 CFR Part 710

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirement, Inventory.

(15 U.S.C. 2620)

Dated: September 11, 1984.

Alvin L. Alm,

Acting Administrator.

[FR Doc. 84-24922 Filed 9-19-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 747

[OPTS-61010; TSH-FRL 2637-3]

Mixed Mono and Diamides of an Organic Acid Restrictions on Use in Metalworking Fluids

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediately effective proposed rule.

SUMMARY: EPA is proposing a rule under section 6(a) of the Toxic Substances Control Act (TSCA), which is effective immediately under section 5(f)(2) of TSCA. The proposed rule will remain in effect until EPA promulgates a final rule. The rule applies to the new chemical substance which was the subject of premanufacture notice (PMN) P-84-529, submitted under section 5(a) of TSCA. The rule prohibits the addition of any nitrosating agent, such as nitrites, to the chemical substance know generically as mixed mono and diamides of an organic acid when it is or could be used in metalworking fluids. The rule also requires distributors of the substance to notify customers of the restrictions of the rule through letters sent prior to shipment of the substance and to notify machine shop workers of the health hazard through labels on metalworking fluids containing the substance. EPA believes that the unrestricted distribution of the substance in commerce and its unrestricted processing and use in combination with nitrosating agents will present an unreasonable risk of injury to human health before a final rule can be promulgated under section 6 of TSCA to protect against this risk.

DATES: This rule is effective September 20, 1984. Written comments and requests for a public hearing must be submitted by November 19, 1984. A public hearing will be held, only if requested, beginning on December 3, 1984.

ADDRESS: Comments should be sent in triplicate to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

Comments must include the docket control number OPTS-61010. Comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above.

Requests for a public hearing must be submitted to the above address and should reference the docket control number OPTS-61010. The time and

location of the public hearing, if requested, will be announced in the future. Any person wishing information on the time and location of the hearing should contact the TSCA Assistance Office at the address and telephone number under "For Further Information Contact" below.

FOR FURTHER INFORMATION CONTACT:

Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(f)(2) of TSCA authorizes the Administrator to issue a proposed rule under section 6(a) of TSCA to apply to a chemical substance which is the subject of a premanufacture notice. Such a rule may be issued if the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance presents or will present an unreasonable risk of injury to health or the environment before a final rule promulgated under section 6 can protect against such risk. The section 6(a) rule may, among other things, require that a chemical substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal as prescribed by the Agency; the Agency may also restrict the processing and use of the chemical substance. Pursuant to section 5(f)(2), a rule thus proposed under section 6(a) is immediately effective upon its publication in the Federal Register.

Substances covered by a proposed section 6(a) rule immediately effective upon publication pursuant to section 5(f)(2) are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances covered by such a proposed rule are also subject to TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127, and 127.8 (48 FR 84734, August 1, 1983). EPA regulations discussing TSCA's import requirements appear at 40 CFR Part 707, published in the Federal Register of December 13, 1983 (48 FR 55462).

II. Regulatory Background

A. PMN Background

On March 26, 1984, a PMN was received by the Agency and subsequently designated P-84-529. The specific identity of the substance, generically identified as mixed mono and diamides of an organic acid, was claimed confidential. EPA announced receipt of this PMN in the Federal Register of April 6, 1984 (49 FR 13744). The original 90-day review period would have expired on June 23, 1984. The submitter suspended the review period for 90 days on May 23, 1984, to provide EPA time to develop this proposed rule. The review period now expires on September 21, 1984.

The notice submitter claimed the specific chemical identity and production volume as confidential business information. The notice submitter specified that the substance will be manufactured for use as a corrosion inhibitor for aqueous systems. It may be used in metalworking fluid systems.

Because the specific chemical identity of the substance is confidential, it will be referred to by its generic name or PMN number in this preamble and the proposed rule. No test data on the substance were submitted with the PMN.

B. Related Rulemaking Activity

EPA has proposed two rules virtually identical to this proposed rule under section 6(a) of TSCA, made immediately effective under section 5(f) of TSCA, which were published in the Federal Register of January 23, 1984 (49 FR 2762) and June 14, 1984 (49 FR 24658), respectively. The January 23, 1984 rulemaking involves two new chemical substances, one of which, P-83-1005 (identified generically as triethanolamine salt of tricarboxylic acid) can be used as a corrosion inhibitor in aqueous metalworking fluids. The other, P-83-1062 (identified generically as tricarboxylic acid), is used as an intermediate to produce P-83-1005. The June 14, 1984 rulemaking involves P-84-310, identified generically as triethanolamine salt of a substituted organic acid which can also be used as a corrosion inhibitor in aqueous metalworking fluids. The risks presented by the unrestricted processing, distribution in commerce, and use of P-83-1005 and P-84-310 and virtually identical to those presented by P-84-529, and EPA is proposing the same regulatory approach to deal with those risks. Consequently, the discussion in this preamble, and the structure of this rule, are nearly identical to those for P-83-1005, P-83-1062, and P-84-310. Persons interested in this rulemaking may also be interested in the related rulemaking activity. EPA will, to the extent feasible, consider comments on all the rules in reaching decisions on the final rules.

The Agency is also considering proposing a rule under sections 6(a) and 8(a) of TSCA to impose reporting and/or recordkeeping requirements on manufacturers, importers, processors, and distributors of P-83-1005, P-83-1062, P-84-310, and P-84-529. Comments on the immediately effective proposed rule for P-84-529 may include discussion of possible approaches to reporting and recordkeeping for P-83-1005, P-83-1062, P-84-310 and P-84-529.

III. Reasons for Proposing the Rule

Metalworking fluids containing P-84-529 generally would not require addition of nitrosating agents, such as nitrites, to perform effectively. Based on the use patterns of similar substances, however, EPA believes that such addition of nitrosating agents could occur in practice. The Agency has determined that the diamide contained in P-84-529 will hydrolyze during use under high temperatures to amines and in the presence of nitrosating agents will be nitrosated to form N-nitrosodiethanolamine (NDELA). (Refs. 22, 29, and 30), which has been shown to be carcinogenic in animals.

Furthermore, excess amines and amine salts of the organic acid contained in P-84-529 in the presence of nitrosating agents will also be nitrosated to form NDELA.

The Agency believes that occupational exposures to NDELA due to the use of metalworking fluids containing P-84-529 together with nitrosating agents will subject workers to carcinogenic risks. NDELA is expected to be formed and to be absorbed via all routes (lungs, gastrointestinal tract, and skin). The Agency has therefore concluded that the unrestricted processing, distribution in commerce, and use of P-84-529 will present a unreasonable risk of injury to health before a final rule could be promulgated under section 6 of TSCA to protect against the risk.

EPA also believes that processing and use restrictions, and appropriate warnings and instructions to notify processors and users of the risks of combining P-84-529 with nitrosating agents, will protect persons from any unreasonable risk resulting from exposure to NDELA. In the absence of nitrosating agents, NDELA is not expected to be formed in metalworking

fluids containing P-84-529. Detailed technical information supporting the discussion which follows is contained in the Technical Support Document available in the record of this rulemaking.

A. Formation of NDELA

Like P-84-529, nitrites are corrosion inhibitors. Corrosion inhibitors, including nitrites, are frequently added to water-based metalworking fluids to extend the useful lifetimes of the fluids (Ref. 7), and to impart some specific corrosion inhibiting properties. The Agency has information that the addition of nitrites to metalworking fluids routinely occurs, both by formulators (processors) and users (Ref. 7).

The formation of N-nitrosamines in commercial metalworking fluids is well established (Ref. 8). The addition of nitrites to an aqueous metalworking fluid generates direct nitrosating agents, such as nitrous acid (HONO) or dinitrogen trioxide (N_2O_3), which may directly transform (nitrosate) secondary, tertiary, and certain primary amines to N-nitrosamines (Refs. 33 and 35). the Agency has concluded that, under conditions of use in metalworking fluids, diamides will hydrolyze under high temperatures to amines and in presence of nitrosating agents will be nitrosated to form NDELA. This conclusion is supported by Podall (Refs. 29 and 30) and March (Ref. 22), demonstrating that diamides can be hydrolyzed and nitrosated to form NDELA. Furthermore, excess amines and amine salts of the organic acid contained in P-84-529 in the presence of nitrosating agents will also be nitrosated to form NDELA (Reft. 30).

If P-84-529 is used without nitrites, as intended by the PMN submitter, there is expected to be no risk from nitrosamine formation. However, EPA believes that some processors and users could economically use P-84-529 as a co-corrosion inhibitor in metalworking fluids which contain nitrites (Ref. 8). Likewise, EPA believes that metalworking fluid formulations containing P-84-529 may subsequently have nitrites added to them because it is a common industry practice to add corrosion inhibitors, including nitrites, to existing metalworking fluids (Ref. 7). EPA is not aware of any reason that these practices might not occur.

EPA has been unable to determine the exact amounts of NDELA which will form if metalworking fluid formulations containing P-84-529 are used in conjunction with nitrosating agents. However, it is clear that, over time and during use, significant quantities of NDELA could be formed, limited only by the amounts of P-84-529 and nitrites available. A substantial number of people involved in metalworking practices may be exposed to varying levels of NDELA for significant periods of time, thereby experiencing potentially increasing risks.

B. Absorption of NDELA

Edwards et al. (Ref. 6) demonstrated the absorption of NDELA through the skin of humans wearing an NDELA-contaminated facial cosmetic by measuring NDELA in the urine of exposed humans. In addition, Bronaugh et al. (Ref. 2) showed that NDELA can penetrate isolated human epidermis *in vitro*. Two other studies have shown absorption of NDELA through the skin of several different animal species. Marzulli et al. (Ref. 23) showed dermal absorption using monkeys and pigs, and Lijinsky et al. (Ref. 20) achieved similar results using rats. There are no data regarding the absorption of NDELA following inhalation exposure. However, EPA believes it is reasonable to conclude that the absorption of NDELA by this route will be at least equivalent to that observed following the dermal administration of NDELA as a solution in metalworking fluids.

The Agency has concluded that the NDELA to which workers may be exposed via the inhalation route (due to the volatilization of the substance from metalworking fluids or to the formation of mists of NDELA-containing fluids generated during metalworking operations) will also be absorbed via the lungs and the gut.

C. Adverse Health Effects of NDELA—Laboratory Data

Laboratory data indicate that among the nitrosamines, NDELA is one of the most potent carcinogens in animals. NDELA has been shown to elicit nasal carcinomas and tracheal papillary tumors when administered to hamsters by subcutaneous injection (Ref. 12). In addition, hepatocellular carcinomas were induced in rats following oral administration of NDELA (Ref. 4). A more recent and comprehensive study by Preussman et al. (Ref. 32) has confirmed the positive findings of Druckrey et al. (Ref. 4). EPA has concluded that NDELA is carcinogenic in animals and, for regulatory purposes under TSCA, is presumed to be carcinogenic in humans.

D. Use Practices

Because of general concerns about the formation of N-nitrosamines during use of metalworking fluids, EPA has been studying metalworking industry practices for some time. EPA has concluded that processors of metalworking fluid concentrates (i.e., persons who formulate the concentrates) routinely add corrosion inhibitors, for example nitrites, to such concentrates to impart corrosion inhibiting properties to the fluid (Ref. 7). Typically, these corrosion inhibitors are added to concentrates in ranges of 1 to 10 percent (Ref. 7). Such use of nitrites has a long history in metalworking and in the formulation of metalworking fluid concentrates.

In machine shops and other metalworking operations, corrosion inhibitors, including nitrites, are routinely available and used by the workers to impart corrosion inhibiting properties. EPA's analysis has shown that workers commonly add corrosion inhibitors, such as nitrites, to metalworking fluids during metalworking operations, particularly to restore the corrosion inhibiting properties of a fluid that has been used for some time (Ref. 7). Historical use of nitrites in metalworking fluids has made the addition of nitrites during metalworking operations a common practice. The PMN submitter states that P-84-529 is intended to be used without nitrites.

EPA believes that there are two possible scenarios where P-84-529 could be used in the presence of nitrites.

First, the good performance provided by P-84-529 could lead a formulator to replace an existing specialty corrosion inhibitor with P-84-529 to improve performance (Ref. 8). Thus P-84-529 could be used in a nitrite-containing fluid.

Secondly, P-84-529 could come into contact with nitrites at the user sites. It is a common industry practice to add corrosion inhibitors to metalworking fluids to improve or maintain corrosion inhibition properties during use (Ref. 24 and 36). Potassium or sodium nitrites may be among the corrosion inhibitors added in such a manner (Ref. 7).

Accordingly, processors and users could add nitrites to metalworking fluids containing P-84-529 during formulation or use in accordance with normal industry practices.

E. Potential Worker Exposures

EPA examined the possible exposure of workers to P-84-529 contained in metalworking fluids and to NDELA in fluids containing P-84-529 and nitrites. The Agency determined that potential dermal and respiratory exposure of machine shop workers to NDELA is expected to be significant.

1. *Exposure during manufacturing and processing.* The PMN submitter has indicated that when P-84-529 is used as an additive in the preparation of a rust inhibiting package, the concentration of P-84-529 in the package will be 25 to 30 percent. P-84-529 will be manufactured and processed into a rust inhibiting package at one site. During manufacturing EPA estimates two workers may be exposed for 3 hours per day for up to 2 days per year at one site. During processing EPA estimates two workers may be exposed for 3 hours per day for up to 15 days per year at one site. The manufactured P-84-529 will contain no nitrites. Thus, exposures to P-84-529 alone are not of concern. The rust inhibiting package is then sold to 50 to 100 formulators who process the package into a metalworking fluid concentrate containing 2 to 3 percent of P-84-529.

During processing of the package into a metalworking fluid concentrate EPA estimates two workers may be exposed for 3 hours per day for up to 50 days per year per site.

Typical metalworking fluid concentrates to which P-84-529 might be added usually contain 1 to 10 percent of corrosion inhibitor (Ref. 7). Since nitrites are commonly used for this purpose, it is probable that some metalworking fluid concentrates to which P-84-529 would be added may also contain nitrites. However, processing workers who formulate and package metalworking fluid concentrates containing both nitrites and P-84-529 are not expected to be exposed to NDELA because diamides contained in P-84-529 are not expected to hydrolyze to amines at ambient temperatures.

2. *Exposure during use.* Metalworking fluid concentrates containing P-84-529 would primarily be used in machine shops. The major exposure to NDELA would occur during metalworking operations. The concentrate containing 2 to 3 percent of P-84-529 will be diluted with water to .05 to .3 percent for use in machine shops. Addition of corrosion inhibitors, including nitrites, to such waterbased metalworking fluids is a common practice in machine shops. Neither the Agency nor the PMN submitter knows of any reason why nitrites could not be added to a fluid containing P-84-529. The Agency has concluded that as many as 10,000 workers could be exposed to metalworking fluids containing P-84-529 and nitrosating agents, such as nitrites, at the maximum projected manufactured volume (Ref. 42).

Workers' hands and arms are routinely exposed to metalworking fluids in machine shops. This exposure results from handling machined parts coated with the fluids during metalworking operations, contact with contaminated equipment, maintenance, and cleanup operations. Workers are not expected to avoid contact with the metalworking fluids because the fluids are non-irritating to the skin (aside from allergic dermatitis which may develop over prolonged periods of exposure), and the workers are generally not aware of the hazards associated with these fluids. In addition, gloves decrease the dexterity needed when handling machined parts and are, therefore, not worn. Thus the Agency believes that workers could be dermally exposed each workday to potentially significant levels of the NDELA formed in metalworking fluids containing both P-84-529 and nitrosating agents.

Workers could also be exposed to NDELA generated in metalworking fluids via inhalation of mists generated during machining operations (Ref. 16). Workers using metalworking fluids containing P-84-529 and nitrosating agents could also be exposed to smaller amounts of NDELA from inhalation of NDELA vapors. The workers in machine shops do not wear respirators that would protect against such exposure to NDELA.

F. Carcinogenic Risk in Humans

Because NDELA, a known carcinogen, will form if nitrosating agents are added to metalworking fluids containing P-84-529, workers in machine shops will be exposed to potentially significant amounts of NDELA in such metalworking fluids through dermal contact with the fluids and inhalation of fluid mists and NDELA vapors. Because NDELA is absorbed in significant amounts through the skin, lungs, and gastrointestinal tract, EPA has concluded that machine shop workers may experience a significant risk of cancer from using such metalworking fluids.

G. Economic and Health Benefit Considerations

1. *Substitutes for nitrites and P-84-529.* The submitter states that P-84-529 may function as a corrosion inhibitor in metalworking fluids. EPA believes that there are numerous potential substitutes for nitrites that could be used in metalworking fluids containing P-84-529 without presenting any risk from formation of nitrosamines. These substitutes generally fall into the following groups:

a. Tall oil fatty acids, alkanolamine reaction products.

b. Borates and boron/nitrogen compounds.

c. Petroleum sulfonates.

d. Carboxylates.

EPA believes that substances in the groups listed above could also serve as substitutes for P-84-529, if necessary (Ref. 8).

Chemical substances within these groups are commercially available and currently in use in metalworking fluids. They could provide some, if not all, of the property advantages of P-84-529. The prices of substitutes are generally competitive with the price of the PMN substance.

2. *Cost of controls.* EPA is proposing that processors and users of metalworking fluids which contain P-84-529 be prohibited from adding nitrosating agents, including nitrites, to such fluids. EPA is also proposing that distributors of P-84-529, or any product containing P-84-529, who distribute the substance in commerce in such a manner that it could be used in metalworking fluids notify customers through a letter of the requirements of the rule and confirm receipt of the letter in writing. EPA is also proposing that distributors of P-84-529 in metalworking fluids label containers of those fluids.

EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P-84-529 (Ref. 8). P-84-529 is intended to be marketed as a corrosion inhibitor. If used alone in a metalworking fluid without the addition of nitrosating agents, P-84-529 should provide the needed corrosion inhibition without any change in performance. If additional corrosion inhibitors are desired in the metalworking fluid, substitutes for nitrosating agents are readily available, though possibly at somewhat greater cost.

EPA has concluded that the present value of the cost of notifying customers through labels and/or letters in accordance with the rule will add less than $0.001 per gallon of the PMN substance or to the final formulated metalworking fluids.

EPA does not believe that such letters and labels will make the substance or resulting products any less competitive than other corrosion inhibitors or metalworking fluids. Indeed they may attract buyers interested in avoiding use of nitrites (Ref. 7).

3. *Health benefits.* The controls proposed in this rule would minimize any risk to machine shop workers of cancer resulting from exposure to NDELA formed in metalworking fluids containing P-84-529. These benefits cannot be quantified.

4. *Economic impacts.* EPA selected an approach for regulating P-84-529 which is the least burdensome method of providing the health benfits of minimizing, if not eliminating, the risk associated with use of P-84-529 in combination with nitrites. Other alternatives available to EPA, such as banning P-84-529 or requiring exposure controls, may provide the same health benefits, but probably would keep P-84-529 from being introduced into the market. Taking no regulatory action would not provide these health benefits.

Introduction of P-84-529 into the market as a corrosion inhibitor for metalworking fluids may present benefits to the PMN submitter and society. P-84-529 may present property benefits over some existing products now on the market. EPA's selected approach is expected to provide almost all of the benefits of allowing the substance on the market.

EPA realizes that there could be some adverse impact on the marketability of the substance resulting from this rulemaking. EPA believes that most of this impact would result from the loss of market to those who would use the substance in combination with nitrites. EPA believes this form of loss of market would be slight and is a desirable outcome of this rulemaking. Some unintended loss in market may also result due to the existence of this regulation.

As discussed above, the cost of complying with the section 5(f)(2) rule is not expected to be significant. Most of the impact on the marketability of the substance is not expected to result from these compliance costs.

Other methods of regulating the substance, such as a ban or exposure controls, would impose significant costs on the PMN submitter and others. While taking no regulatory action would impose no costs, the health benefits of reduced risk would be lost.

H. The Section 5(f) Finding

Section 5(f)(1) of TSCA authorizes EPA to take action with respect to a new chemical substance which is the subject of a PMN. The Agency can take such action if it "has a reasonable basis to conclude" that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, or any combination of such activities "presents or will present an unreasonable risk of injury to health or the environment before a rule promulgated under section 6 can protect against such risk." There are two components to this finding, as follows:

1. *Unreasonable risk.* TSCA does not specifically define the term "unreasonable risk." However, the legislative history makes clear that a determination of whether a risk is unreasonable requires a balancing of the probability and severity of harm from the substance against the costs of the regulatory action to society. Congress recognized that the implementation of the unreasonable risk standard "will of necessity vary depending on the specific regulatory authority which the Administrator seeks to exercise" (Ref. 17).

With respect to a new chemical substance that is the subject of a PMN, EPA will have less complete information and experience upon which to base a regulatory action than for a chemical substance which has been in commerce for some time. However, it is clear that Congress intended EPA to exercise authority under section 5(f) of TSCA for new substances which will pose unreasonable risks.

In this instance, EPA has concluded that NDELA will form when P-84-529 is used in the presence of nitrosating agents. Since the substance has not been tested, EPA is unable to quantify exactly how much NDELA will form in such fluids. Different amounts of P-84-529 may be used in different formulations of metalworking fluids, and different types and amounts of nitrites or other nitrosating agents may be added to such fluids. Time, temperature, and conditions of use are also variables in determining the amount of NDELA that might be formed in a specific metalworking fluid.

EPA has a strong basis for concluding that NDELA poses a carcinogenic hazard and that if it gets onto workers' skin, into their lungs, or into their gastrointestinal tracts, it will be absorbed and, with chronic exposure, will very likely cause cancer.

The extent to which workers will be exposed to NDELA as a result of the introduction of P-84-529 is unknown because exposure to the substance has not been monitored. However, EPA has based its exposure analysis on knowledge of the use of metalworking fluids of this type, and the types and quantity of exposure which result.

In light of the potentially significant risk of cancer to workers using metalworking fluids containing P-84-529 and nitrosating agents and the low cost of the regulatory controls chosen, EPA has concluded, in accordance with section 5(f)(1) of TSCA, that processing, distribution in commerce, and use of P-84-529 without processing and use restrictions and notification requirements will present an unreasonable risk of injury to human health.

Because little specific data is available, EPA's exposure analysis is based on general knowledge of exposure to similar substances in metalworking fluids. Thus, EPA's risk findings are, to a certain degree, speculative. However, EPA believes that even if exposure to NDELA in metalworking fluids containing P-84-529 and nitrosating agents such as nitrites were low, such exposure would still lead to a risk to the health of machine shop workers which is unreasonable in light of the extremely low cost of eliminating that risk entirely.

2. *Need for expedited action.* Action under section 5(f) of TSCA also requires a finding that the unreasonable risk will occur before a rule promulgated under section 6 of TSCA can protect against the risk. Unless it is clear that, because of special circumstances, the exposures of concern will not occur for an interval during which EPA could conduct an ordinary section 6 rulemaking, EPA is authorized to determine that immediate control is necessary to protect against the risk.

In this instance, in accordance with section 5(f)(1), EPA has concluded that the risk of exposure to NDELA and the resulting risk of cancer in machine shop workers would begin as soon as these workers are exposed to metalworking fluids containing P-84-529 and nitrosating agents such as nitrites. EPA has concluded that processors who formulate metalworking fluid concentrations may add nitrites or other nitorsating agents to formulations containing P-84-529 once distribution of the substance begins. In addition, based on routine workplace practices in metalworking operations, in particular in machine shops, EPA has concluded that, even if the formulated metalworking fluid concentrates containing P-84-529 are not sold with nitrites, workers are likely to add corrosion inhibiting agents, such as nitrites, to those fluids during use in the workplace. Thus, the risk of NDELA formation and exposure to workers will begin immediately.

A typical section 6 rulemaking could take at least a year, and probably more, to complete. Thus, unless section 5(f) authority is invoked, machine shop workers would be at risk from exposure for a considerable length of time.

Even though cancer results from chronic exposure, EPA believes it is appropriate to use the authority of section 5(f) to deal with such a risk. Congress intended that EPA pay special attention to risks of cancer and make every effort to ensure that such risks are not unreasonable.

IV. Alternatives Considered

A. TSCA Alternatives

EPA considered other possible approaches to ensuring the protection of human health. These alternatives were discussed in detail in the preambles to both the January 23, 1984 rulemaking for P-83-1005 and P-83-1062 (49 FR 2712) and the June 14, 1984 rulemaking on P-84-310 (49 FR 24658).

B. Non-TSCA Alternatives

In response to the first section 5(f) action for the chemical substances identified as P-83-1005 and P-83-1062, comments questioned whether the Agency should have referred these substances under section 9(a) of TSCA to the Occupational Safety and Health Administration for action under the Occupational Safety and Health Act. EPA considered such an action for those substances and for the second section 5(f) action on P-84-310, but decided that TSCA was the more appropriate authority to deal effectively with the risks posed by these substances. See the preamble to the rulemaking on P-84-310, published in the Federal Register of June 14, 1984 (49 FR 24658), for a complete discussion.

V. Regulatory Investigation of Metalworking Fluids

The Agency's actions on P-84-529, P-84-310, P-83-1005, and P-83-1062 reflect its concern about the potential human health risk posed by exposure to nitrosamines in metalworking fluids in general. The Agency is conducting a regulatory investigation into any unreasonable risks to human health posed by nitrosamines in synthetic and semisynthetic metalworking fluids. This investigation may culminate in the promulgation of a rule under section 6 of TSCA addressing nitrosamine-related health risks posed by existing metalworking fluids. Such a rule could render this proposed rule, and the proposed rules for P-83-1005, P-83-1062, and P-84-310 redundant or obsolete. If so, EPA may in the future incorporate these rules into the generic section 6 rule or revoke them entirely.

Refer to Unit V of the preamble of the Federal Register notice of January 23, 1984 (49 FR 2762) for P-83-1005 and P-83-1062 and Unit V of the preamble of the Federal Register notice of June 14, 1984 (49 FR 24658) for P-84-310 for further information on the general investigation of metalworking fluids.

VI. Exemptions to the Rule

Persons who process, distribute in commerce, or use P-84-529 would not be subject to the restrictions of this proposed rule if:

1. They manufacture, import, process, distribute in commerce, and use the substance in small quantities solely for research and development in accordance with TSCA section 5(h)(3).
2. They manufacture, import, process, distribute in commerce, and use the substance only as an impurity.
3. They import, process, distribute in commerce, or use the substance only as part of an article.

EPA has designated these three exemptions because in these three situations the substance is unlikely to present a risk.

4. The process or distribute the substance in commerce solely for export from the United States and, when distributing in commerce, label it in accordance with section 12(a)(1)(B) of TSCA.

EPA has included an exemption for P-84-529 when it is processed or distributed in commerce solely for export. As discussed above in Unit III.F.1 of this preamble, EPA is not concerned about worker exposure NDELA during processing of P-84-529 with nitrosating agents because of the high temperature required to form amines and the length of time required for NDELA to form. Rather, EPA has placed restrictions on adding nitrosating agents to P-84-529 during processing to protect workers who will use metalworking fluids containing P-84-529. Similarly, the restrictions on distribution of P-84-529 in commerce, i.e. notification letters and labels on containers of metalworking fluids, are designed to inform processors, users, and other distributors of the restrictions of the rule—again to protect workers who will use metalworking fluids containing P-84-529. Section 12(a) of TSCA exempts substances processed or distributed in commerce solely for export from regulation under section 6 unless EPA finds that the activities will present an unreasonable risk of injury to health or the environment in the United States. In this case, if the use of P-84-529 will occur outside the United States, there is no unreasonable risk in the United States.

The proposed rule defines "process or distribute in commerce solely for export" in a similar fashion to the definition of "manufacture solely for export" used in the PMN rule (40 CFR 720.3(s)). All processing must be performed at sites under the control of the processor, distribution in commerce is limited to purposes of export, and the substance may not be used by the processor or distributor other than in small quantities solely for research and development. However, such exempt exports remain subject to export notification under section 12(b) of TSCA.

VII. Procedures for Informing Persons of the Existence of This Rule

The final rule will be published in the Federal Register and codified in the Code of Federal Regulations (CFR).

EPA intends to publish information concerning the final rule, and this immediately effective proposed rule, in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances (OTS). EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of the final rule through a footnote to the chemical identity of the chemical substance subject to the rule. The footnotes would refer to an Inventory Appendix which would give a Federal Register or CFR citation for the final rule.

Determining whether a chemical substance is subject to the rule is more difficult when the identity of the chemical substance is confidential. In this case, the chemical identity of P-84-529 was claimed confidential in the PMN. EPA is proposing to keep the specific identity of the substance confidential in the final rule. The substance would be referred to by a generic chemical name and PMN number. On the printed version of the Inventory, there would be a footnote indicating that the chemical substance masked by the generic name is subject to the rule.

Any person proposing to manufacture or import a chemical substance within the generic name of P-84-529 for the first time would ask EPA whether its chemical substance is on the Inventory. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture or import the substance in question. Under either 40 CFR 710.7(g)(2) of the Inventory Reporting Rules or 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules, which were published in the Federal Register of May 13, 1983 (48 FR 21722), EPA would evaluate the inquiry and would answer the inquiry by either informing the requester that the substance is on the Inventory or informing the requester that sufficient information has not been furnished to show a *bona fide* intent to manufacture or import the substance in question. In the first case, EPA is proposing to tell the manufacturer or importer, as well, whether the substance is subject to this rule.

This procedure would allow manufacturers and importers to determine whether they are subject to the rule while protecting confidential business information from unnecessary disclosure.

The existing *bona fide* procedure can be used only by manufacturers and importers. EPA believes that, since manufacturers and importers who distribute the substance will be required to notify customers about the rule, processors, distributors, and users buying the substance will be aware, through the letters and labels, that the substance is subject to this rule and will not need to use a *bona fide* procedure.

Because EPA is not proposing a separate *bona fide* procedure for processors, distributors, and users to determine whether the substances they process, distribute, and use are subject to this rule, EPA is proposing to hold processors, distributors, and users liable for violations of the rule only if they are also manufacturers or importers of the substance, or if they have received the letters and labels specified in the rule. Thus, compliance by processors, distributors, and users will be dependent upon the notification and labeling requirements of the rule which will flow initially from manufacturers and importers.

VIII. The Section 5(f) Rulemaking Process

Under section 5(f)(2) of TSCA, after making the appropriate statutory findings discussed in Unit III.H of this preamble, EPA may issue a proposed rule under section 6(a). Such a proposed rule is effective upon publication in the Federal Register. The rulemaking procedures that would apply to an ordinary section 6(a) rule apply to a section 6(a) rule effective upon publication under section 5(f), except that section 5(f)(2) incorporates the provisions of section 6(d)(2)(B) of TSCA. EPA will thus follow its general section 6 rulemaking procedures in 40 CFR Part 750 subject to specific section 6(d)(2)(B) requirements.

Section 6(d)(2)(B) of TSCA provides that EPA must give interested persons prompt notice of the action, provide a reasonable opportunity for a hearing in accordance with section 6(c) (2) and (3), and either promulgate the rule as proposed, or with modification, or revoke it. However, unlike an ordinary section 6(c) rulemaking in which EPA would schedule the hearing after allowing written comment, section 6(d)(2)(B) proves that, if a person requests a hearing, EPA must begin the hearing within 5 days of the request, unless EPA and the person making the request agree upon a later date. Section 6(d)(2)(B) further provides that EPA must promulgate a final rule, or revoke the proposed rule, within 10 days of the conclusion of the hearing.

For this rulemaking, EPA has established the following schedule: To provide a reasonable opportunity for comment by all interested persons, EPA will accept written comments for 60 days from the date of publication of this Federal Register notice. A legislative hearing is scheduled to begin 14 days after the end of the 60-day comment period. The hearing will be held only if EPA receives a formal request from an interested person by the end of the 60-day comment period. If a hearing is requested, interested persons will be given an opportunity to present information. Fourteen days after the conclusion of the initial hearing, EPA will hold a cross-examination hearing, but only if an opportunity for cross-examination is requested by an interested person within 7 days of the time the full transcript of the initial hearing becomes available and EPA grants the request. Within 14 days of the close of the initial hearing, or within 14 days of the close of the cross-examination hearing if such a hearing is held, reply comments may be submitted. After that 14-day period, the hearing is officially concluded, and EPA will promulgate the final rule or revoke it within 10 days.

EPA requests that all interested persons adhere to this schedule to allow all persons an adequate opportunity to comment and participate. However, if a person comes in at any time during the 60-day period and requests an immediate hearing, EPA is required to begin the hearing within 5 days of the request. If so, EPA will be forced to cut short the written comment period and proceed with the hearing. EPA will give as much notice as possible of any such hearing request and any change in the rulemaking schedule.

IX. The Rule

A. Proposed Rule Language

This proposed rule is structured as follows: The chemical substance is described in paragraph (a). Paragraph (b) contains applicable definitions. Paragraphs (c) and (d) contain processing and use prohibitions and warning and instructions requirements. Paragraph (e) sets forth the procedures for determining whether a substance is subject to the rule and discusses processor, distributor, and user liability. Paragraph (f) sets out activities that are exempt from the rule. Paragraph (g) describes enforcement provisions applicable to the rule.

EPA invites comments on all aspects of the proposed rule language.

B. Discussion of Provisions

The proposed rule applies to P-84-529. EPA has decided to require that letters be sent to customers receiving the substance and that labels be used on metalworking fluids containing the substance because processors, distributors, and users are unlikely to become aware of the processing and use restrictions in this rule when they buy the substance or products containing the substance unless they receive adequate notice of the rule provisions. Absent such notice, EPA believes unintentional noncompliance with the processing and use restrictions would be widespread, and the rule would be difficult to enforce. Accordingly, a letter and label will make them aware of this rule and its requirements.

For purposes of notifying distributors and processors of P-84-529 before it is formulated into metalworking fluids, EPA is proposing that distributors (beginning with manufacturers and importers) send to each customer, and confirm receipt in writing prior to the first shipment of the product containing P-84-529, a notice letter alerting the customer to the rule and explaining its provisions. The written confirmation of receipt may consist of the return receipt from a letter sent by certified mail, registered mail, or overnight express, a copy of the notification letter itself signed by the recipient and returned to the distributor, or any other written memorial confirming receipt of the letter. EPA is not, by specifying that the confirmation of receipt shall be in writing, requiring any new information to be generated by distributors or recipients of the new chemical substance.

EPA concluded that this approach would be much more effective in achieving compliance with the rule than requiring labels on each container of the shipment because management at a formulator (processor) or distributor site would be responsible for the decision to formulate metalworking fluids or further distribute products. Workers likely to read a label would have no control over those operations.

On the other hand, in the machine shop use situation, EPA wants to ensure that both the management and the individual workers who may add nitrites to a metalworking fluid as part of a standard operating procedure are aware of the restrictions of the rule. Accordingly, EPA is proposing that

distributors (including processors) send to the users' management a notice letter, and confirm receipt in writing prior to the first shipment of the product containing P-84-529. The distributors must also label individual containers of metalworking fluids containing P-84-529 to protect and inform users.

Although the proposed rule requires that one notice letter be sent prior to the first shipment of P-84-529, the Agency is considering requiring more frequent use of the letters. Additional letters could be required either upon the lapse of a specified period of time after the first shipment or with each shipment. For example, discrete shipments of P-84-529 might be ordered by a company and used on different production lines over time such that the contents of the notice letter might be communicated by management only to the workers on the first production line, and not to subsequent users. Such a finding would support the use of the letters with each shipment. A finding that worker turnover could lead to P-84-529 being used by workers who have not received adequate warning of the possible health risks from management would support the use of additional letters upon the lapse of a specified period of time after the first shipment. The Agency solicits comments on these alternative approaches.

The rule also requires any person who distributes in commerce a metalworking fluid containing P-84-529 to affix a label to each container. The label must contain a warning statement consisting only of the following language:

WARNING! Do Not Add Nitrites to This Metalworking Fluid under Penalty of Federal Law. Addition of nitrites leads to formation of a substance known to cause cancer. This product is designed to be used without nitrites.

See the preamble to the June 14, 1984, rulemaking for P-84-310 for a discussion of possible additions to the letter or label.

The PMN submitter indicated in the PMN that P-84-529 can also be used in other aqueous applications. In that use, addition of nitrites is unlikely, and EPA has no concern for such use of P-84-529. However, it is possible that P-84-529 will be marketed in forms in which it could be used either in metalworking fluids or in other applications, for example, hydraulic fluids. For this reason, EPA is proposing that the processing restrictions and letter notification requirements apply when P-84-529 is processed or distributed in commerce in any form in which it could become a component of a metalworking fluid regardless of whether that use is intended by the processor or distributor.

C. Immediately Effective Provisions

All the provisions of the proposed rule, promulgated under the authority of section 6(a) of TSCA, are in effect as of this publication in the Federal Register and will remain in effect until EPA promulgates the final rule as provided by section 5(f) of TSCA.

X. Enforcement

It is unlawful for any person to fail or refuse to comply with any rule promulgated under section 6 of TSCA. Distribution in commerce of the chemical substance without letter notification and labeling, as required by the rule, is a violation of section 15. Processing and use of P-84-529 in violation of the rule is a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes, a chemical substance or mixture which such person knew or had reason to know was processed or distributed in commerce in violation of this rule.

2. Fail or refuse to permit entry or inspection as required by section 11 of TSCA.

3. Fail or refuse to permit access to or copying of records, as requred by section 11 of TSCA.

Violations may be subject to both criminal and civil liability. Under the penalty provisions of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of the rule could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of the rule and seizing chemical substances processed or distributed in violation of the rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies.

XI. Confidential Business Information

A. Public Comments

1. Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2.

2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

B. Disclosure of Specific Chemical Identity

The specific chemical identity of the new chemical substance that is the subject of this proposed rule was claimed confidential in the PMN. While EPA has authority under section 14(a)(4) of TSCA to disclose information relevant in a proceeding under TSCA notwithstanding its confidentiality, EPA has determined initially that disclosure of the specific identity of P-84-529 is not necessary to conduct this rulemaking proceeding or to comply with the rule.

The generic name which the PMN submitter has authorized EPA to use in this rulemaking reveals the relevant aspects of the molecule in question, in particular the diamides components of P-84-529. EPA believes that interested parties will thus have an adequate opportunity to comment on all aspects of the proposed rule.

XII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-61010). The record includes the basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

A. Categories of Information

1. The PMN for this substance.

2. The Federal Register notice of receipt of the PMN.

3. The Economic Analysis of this proposed rule.

4. The Technical Support Document (Risk Assessment).

5. OMB Comments on the proposed rule, if any, and EPA's response.

6. The proposed rule, published in the Federal Register of January 22, 1984, for two new chemical substances, P-84-1005, identified generically as triethanolamine salt of tricarboxylic acid, and P-84-1062, identified generically as tricarboxylic acid.

7. The proposed rule published in the Federal Register of June 14, 1984 for the new chemical substance P-84-310.

identified generically as triethanolamine salt of a substituted organic acid.

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A public version of this record from which confidential business information is deleted is available to the public from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in the OTS Public Information Office, Rm. E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record.

XIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it will not have an effect on the economy of $100 million

or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not have a significant impact on a substantial number of small entities. Even though many machine shops may be small businesses, EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P-84-529. EPA does not believe that the required letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or metalworking fluids, and may attract buyers interested in avoiding nitrites. The cost of complying with the section 5(f) rule is not expected to be significant.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information collection provisions of a proposed rule must be submitted to OMB for approval. The proposed section 5(f) rule requires no "collection of information" as that term is defined in the Paperwork Reduction Act. The rule requires distributors to transmit information supplied by the Agency to the recipients of P-84-529 via warning labels and letters, and to confirm receipt of the information. No new information need be generated by the distributors of the chemical substance nor are reporting or recordkeeping requirements imposed under this rule. The proposed section 5(f) rule is therefore not reviewable under the Paperwork Reduction Act.

List of Subjects in 40 CFR Part 747

Chemicals, Environmental protection, Hazardous materials, Metalworking fluids.

Dated: September 13, 1984.

William D. Ruckelshaus,

Administrator.

PART 747—[AMENDED]

Therefore, it is proposed that proposed Part 747 [1] of Chapter I of Title 40 be amended by adding § 747.115 to read as follows:

§ 747.115 Mixed mono and diamides of an organic acid.

This section identifies activities with respect to a chemical substance which are prohibited and requires that warnings and instructions accompany the substance when distributed in commerce.

(a) *Chemical substance subject to this section.* The following chemical substance, referred to by its premanufacture notice number and generic chemical name, is subject to this section: P-84-529, mixed mono and diamides of an organic acid.

(b) *Definitions.* Definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section unless otherwise specified in this paragraph. In addition, the following definitions apply:

(1) The terms "Act," "article," "chemical substance," "commerce," "importer," "impurity," "Inventory," "manufacturer," "person," "process," "processor," and "small quantities solely for research and development" have the same meaning as in § 720.3 of this chapter.

(2) "Metalworking fluid" means a liquid of any viscosity or color containing intentionally added water used in metal machining operations for the purpose of cooling, lubricating, or rust inhibition.

(3) "Nitrosating agent" means any substance that has the potential to transfer a nitrosyl group (-NO) to a primary, secondary, or tertiary amine to form the corresponding nitrosamine.

(4) "Process or distribute in commerce solely for export" means to process or distribute in commerce solely for export from the United States under the following restrictions on domestic activity:

(i) Processing must be performed at sites under the control of the processor.

(ii) Distribution in commerce is limited to purposes of export.

(iii) The processor or distributor may not use the substance except in small quantities solely for research and development.

(c) *Use limitations.* (1) Any person producing a metalworking fluid, or a product which could be used in or as a metalworking fluid, which includes as one of its components P-84-529, is prohibited from adding any nitrosating agent to the metalworking fluid or product.

(2) Any person using as a metalworking fluid a product containing P-84-529 is prohibited from adding any nitrosating agent to the product.

(d) *Warnings and instructions.* (1) Any person who distributes in commerce P-84-529 in a metalworking fluid, or in any form in which it could be used as a component of a metalworking fluid, must send to each recipient of P-84-529 and confirm receipt in writing prior to the first shipment to that person:

(i) A letter that includes the following statements:

A substance, identified generically as mixed mono and diamides of an organic acid, contained in the product (*insert distributor's other identifier for product containing P-84-529*) has been regulated by the Environmental Protection Agency, at 40 CFR 747.115, as published in the Federal Register of September 20, 1984. A copy of the regulation is enclosed. The regulation prohibits the addition of any nitrosating agent, including nitrites, to the mixed mono and diamides of an organic acid, when the substance is or could be used in metalworking fluids. The addition of nitrites or other nitrosating agents to this substance leads to formation of a substance known to cause cancer in laboratory animals. The mixed mono and diamides of an organic acid has been specifically designed to be used without nitrites. Consult the enclosed regulation for further information.

(ii) A copy of this § 747.115.

(2)(i) Any person who distributes in commerce a metalworking fluid containing P-84-529 must affix a label to each container containing the fluid.

(ii) The label shall contain a warning statement which shall consist only of the following language:

WARNING! Do Not Add Nitrites to This Metalworking Fluid under Penalty of Federal Law. Addition of nitrites leads to formation of a substance known to cause cancer. This product is designed to be used without nitrites.

(iii) The first work of the warning statement shall be capitalized, and the type size for the first word shall be no smaller than six point type for a label five square inches or less in area, ten point type for a label above five but below ten square inches in area, twelve point type for a label above ten but below fifteen square inches in area, fourteen point type for a label above fifteen but below thirty square inches in area, or eighteen point type for a label over thirty square inches in area. The type size of the remainder of the warning statement shall be no smaller than six point type. All required label text shall be of sufficient prominence, and shall be placed with such conspicuousness relative to other label text and graphic material, to insure that the warning statement is read and understood by the ordinary individual under customary conditions of purchase and use.

[1] Editorial Note: Part 747 was added as an immediately effective proposed rule on January 23, 1984, at 49 FR 2762.

(e) *Liability and determining whether a chemical substance is subject to this section.* (1) If a manufacturer or importer of a chemical substance which is described by the generic chemical name in paragraph (a) of this section makes an inquiry under § 710.7(g) of this chapter or § 720.25(b) of this chapter as to whether the specific substance is on the Inventory and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to this section.

(2) Except for manufacturers and importers of P-84-529, no processor, distributor, or user of P-84-529 will be in violation of this section unless that person has received a letter specified in paragraph (d)(1) of this section or a container with the label specified in paragraph (d)(2) of this section.

(f) *Exemptions.* A person identified in paragraphs (c) and (d) of this section is not subject to the requirements of those paragraphs if:

(1) The person manufactures, imports, processes, distributes in commerce, or uses the substance only in small quantities solely for research and development and in accordance with section 5(h)(3) of the Act.

(2) The person manufactures, imports, processes, distributes in commerce, or uses the substance only as an impurity.

(3) The person imports, processes, distributes in commerce, or uses the substance only as part of an article.

(4) The person processes or distributes the substance in commerce solely for export and, when distributing in commerce, lables the substance in accordance with section 12(a)(1)(B) of the Act.

(g) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act [15 U.S.C. 2614].

(2) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of section 15 of the Act [15 U.S.C. 2614].

(3) Failure or refusal to permit entry or inspection, as required under section 11 of the Act, is a violation of section 15 of the Act [15 U.S.C. 2614].

(4) Violators may be subject to the civil and criminal penalties in section 16 of the Act [15 U.S.C. 2615] for each violation.

(5) EPA may seek to enjoin the processing, distribution in commerce, or use of a chemical substance in violation of this section; act to seize any chemical substance processed, distributed in commerce, or used in violation of this section; or take other actions under the authority of sections 7 and 17 of the Act [15 U.S.C. 2605 and 2616].

(Secs. 5 and 6, Pub. L. 94-469, 90 Stat. 2112 and 2020 (15 U.S.C. 2604 and 2605))

[FR Doc. 84-25079 Filed 9-19-84; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6566

[A-12836, A-12871, A-12874, A-12957, A-12966, A-13020, A-17713, A-19249]

Arizona; Partial Revocation of Water Power Designation No. 5, 6, and 7; Revocation of Power Site Reserve Nos. 446, 447, 451, 490, 605, and Power Site Classification Nos. 210 and 329

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will revoke four Executive orders and six Secretarial orders as they affect approximately 62,000 acres of public land withdrawn for power site reserves, water power designations and power site classifications. These withdrawals are all within Grand Canyon National Park in northwestern Arizona and are situated within a quarter mile of the Colorado River. As National Park lands they will remain closed to surface entry, mining and mineral leasing.

EFFECTIVE DATE: September 20, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Bibles, State Director, Bureau of Land Management, Arizona State Office, P.O. Box 16565, Phoenix, Arizona 85011, 602-241-5501.

SUPPLEMENTARY INFORMATION: 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 and Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended 16 U.S.C. 818, and pursuant to the Determination of the Federal Energy Regulatory Commission in DA Nos. 158, 159, and 160 Arizona, it is ordered as follows:

1. Executive Order of September 5, 1914, creating Power Site Reserve No. 446, as interpreted by Orders of October 14, 1924, October 28, 1940, and October 2, 1959; Executive Order of October 23, 1914, creating Power Site Reserve No. 451, as interpreted by Secretarial Order of November 22, 1934; Executive Order of May 11, 1915, creating Power Site Reserve No. 490 as interpreted by Secretarial Order of October 14, 1924; Executive Order of April 28, 1917, creating Power Site Reserve No. 605 as interpreted by Secretarial Order of May 12, 1928, October 14, 1924 and October 18, 1928; and Secretarial Order of July 16, 1914, creating Power Site Reserve 447 as interpreted by Secretarial Order of October 14, 1924, and October 2, 1959, and partially revoked by Public Land Order 3975 of April 8, 1966, and Presidential Proclamation 3889 of June 20, 1969; three Secretarial Orders of February 9, 1917, creating Water Power Designation Nos. 5, 6, and 7 as interpreted by Secretarial Order of October 14, 1924; Secretarial Order of January 7, 1929, creating Power Site Classification 210 as interpreted by Order of July 27, 1962; and Secretarial Order of March 11, 1942, creating Power Site Classification 329, are hereby revoked as they affect the following:

All lands lying within the boundaries of the Grand Canyon National Park as described under the Act of February 26, 1919 (40 Stat. 1175; 16 U.S.C. 221), revised by the Act of February 25, 1927 (44 Stat. 1238; 16 U.S.C. 221a), and enlarged by the Acts of March 7, 1928 (45 Stat. 234; 16 U.S.C. 221e) and January 3, 1975 (88 Stat. 2089; 16 U.S.C. 228a).

The areas described aggregate approximately 62,000 acres in Coconino and Mohave Counties, Arizona.

Dated: September 14, 1984.

William Clark,

Secretary of the Interior.

[FR Doc. 84-25016 Filed 9-19-84; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR Part 582

[Docket No. 84-25]

Certification of Company Policies and Efforts To Combat Rebating in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: These Final Rules modify the Commission's regulations requiring the filing of certifications of company practices to combat rebating in the foreign commerce of the United States to bring them into conformity with the Shipping Act of 1984 which expands the application of the annual certification requirement from vessel operating common carriers to all common carriers.

DATES: Final Rules effective October 22, 1984, except § 582.3 which will become effective December 15, 1984.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: The Shipping Act of 1984 (1984 Act) (46 U.S.C. app. 1701-1720) was enacted on March 20, 1984 and became effective on June 18, 1984.

Section 15(b) of the 1984 Act (46 U.S.C. app. 1714(b)) makes substantive changes to the previous requirements of section 21(b) of the Shipping Act, 1916 (1916 Act) (46 U.S.C. app. 820(b)), regarding the certification of company policies and efforts to combat rebating in the foreign commerce of the United States. The fundamental change is the expansion of the certification requirements to all common carriers from the former limited application to vessel operating common carriers only.

On May 29, 1984, the Commission published in the Federal Register, 49 FR 22294, an Interim Rule and Request for Comments which implements the 1984 Act's certification requirements. The Interim Rule reflected changes in definitions and application contained in the 1984 Act, particularly the requirement that every non-vessel-operating common carrier (NVO), as well as every vessel operating common carrier, in the foreign commerce file an annual anti-rebating certification.

The Interim Rule also reflected the altered statutory scheme of the 1984 Act under section 15(b) which permits the Commission to require certification from "any shipper, shippers' association, marine terminal operator, ocean freight forwarder or broker." The Interim Rule did not require periodic certifications from entities other than those mandated by statute, but provided that the Commission, "in its discretion", could make such requirements applicable to shippers, shippers' associations, marine terminal operators, freight forwarders and brokers.

Comments in response to the Interim Rule and Request For Comments were received from five parties. Sea-Land Service, Inc. and The National Maritime Council filed comments supporting adoption of the Interim Rule as a Final Rule.

NAVTRANS International Forwarding, Inc. (NAVTRANS), a licensed ocean freight forwarder and subsidiary of North American Van Lines, opposes the Interim Rule with respect to its discretionary application to ocean freight forwarders in 46 CFR 582.2. NAVTRANS points out that it is required to file an annual, anti-rebating certification on March 1 of each year under 46 CFR 510.35 of the Commission's current freight forwarder regulations, and maintains that the requirement of certification of the same basic information at the Commission's discretion under 46 CFR 582.2 would be "costly, unnecessary and administratively burdensome."

Section 582.5(b) of the Interim Rule makes clear that the certifications which may be required from persons enumerated in section 582.1 will be occasional rather than periodic, since they are to be submitted "on the date designated" and "thereafter, as the Commission may direct." The requirement for annual certifications from ocean freight forwarders is continued in Docket No. 84-19, *Licensing of Ocean Freight Forwarders*, and the regulations at 46 CFR Part 510 promulgated therein 49 FR 36296, Sept. 14, 1984. In view of the continuing requirement for both annual certification and notification to shippers under those rules, we agree with NAVTRANS that the inclusion in this Rule of freight forwarders among those from whom the Commission may occasionally require certification under section 582.2 is unnecessary and duplicative. We therefore have deleted the reference to freight forwarders in section 582.2 of the Final Rule. We have, however, added a new paragraph (b) to section 582.1, *Scope*, cross-referencing the anti-rebating certification requirements for freight forwarders contained in 46 CFR Part 510.[1]

The Inter-American Freight Conference (IAFC) submitted comments suggesting several technical amendments to the Interim Rule and taking issue with the penalties established in section 582.1(b) and the requirement of § 582.4 that a new certificate be filed upon appointment of a new Chief Executive Officer (CEO) of a common carrier.

IAFC argues that, because the general penalty of no more than $25,000 per day for violations of the 1984 Act wilfully and knowingly committed is established for violations for which no other penalty is provided, it is inapplicable to section 15(b) which contains a specific penalty of no more than $5,000 per day for failure to file an anti-rebating certificate.

We agree that the language "unless otherwise provided in this Act" would appear to preclude application of the $25,000 penalty for wilful and knowing violations of sections specifying lesser penalties. We have, therefore, deleted the $25,000 penalty provision from the Final Rule, thereby limiting the penalty for failure to file the required reports to $5,000 for each day the violation continues.

In response to IAFC's comments, we have also deleted from the Final Rule § 582.4 [2] which required that a certificate be filed each time a new CEO is appointed. While the rules in § 582.2 require that the CEO act as certifying official, the CEO's responsibility in this regard is to act as authorized spokesman for the corporation. Because the certification is filed on behalf of the company, not the individual officer, we see no need for renewal upon each change of personnel.[3] The technical wording changes suggested by IAFC to assure that the language of the regulations tracks the statute have also been adopted.

The North European Conferences (Conferences) filed joint comments generally supporting the Commission's Interim Rule and urging adoption as a Final Rule.[4] The Conferences, however, propose significant additional coverage and enforcement mechanisms. The Conferences urge the Commission to actively enforce the anti-rebating certification requirement and to issue and enforce a variety of new regulations against foreign-domiciled NVO's operating in the U.S. import trades, foreign-domiciled, as well as domestic, cargo brokers and freight forwarders, and shippers' associations. The thrust of these proposals is that the anti-rebating certification requirements should be applied equally to the U.S. import and export trades, and that various enforcement mechanisms are available to accomplish that end. While the Conferences' proposals appear to raise legitimate issues, they exceed those noticed in the Interim Rule, and therefore are beyond the scope of this proceeding. The Commission will consider making these proposals the

[1] The existing paragraph (b) of § 582.1 is being redesignated as paragraph (c) without change.

[2] Section 582.5 of the Interim Rule is hereby renumbered as § 582.4.

[3] In doing so, we reverse a decision we made in adopting the original anti-rebating certification rules issued under the 1916 Act, based on statutory language similar to that of the 1984 Act. We simply see no regulatory purpose to be served by continuation of this requirement; *CF.* Docket 79-65, 45 FR 12784, (1980).

[4] The North European Conferences are: North Atlantic United Kingdom Freight Conference, North Atlantic French Atlantic Freight Conference, North Atlantic Continental Freight Conference, North Atlantic Baltic Freight Conference, Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference, Continental North Atlantic Westbound Freight Conference, North Atlantic Westbound Freight Association, United Kingdom & U.S.A. Gulf Westbound Rate Agreement, Continental-U.S. Gulf Freight Association, Gulf-United Kingdom Conference, Gulf European Freight Association, North Europe-U.S. South Atlantic Rate Agreement and U.S. South Atlantic-Europe Rate Agreement.

subject of rules in a separate proceeding.

One additional item needs be addressed. Section 582.2 of the Interim Rule required that every common carrier submit an annual anti-rebating certificate by its Chief Executive Officer, and § 582.3 required that each common carrier file by September 18, 1984 a provision in each of its tariffs noting, *inter alia*, that "such [anti-rebating] policy has been certified to the Federal Maritime Commission in accordance with the Shipping Act of 1984 and the regulations of the Commission set forth in 46 CFR Part 582." No comment was received with respect to the interrelationship of these provisions, or their relationship to the certifications previously filed by vessel operating common carriers pursuant to the 1916 Act and the Commission's regulations which were codified at 46 CFR Part 552. We note, however, that the certification requirements of the two Acts being almost identical, it appears to be duplicative and unnecessary to require vessel operating common carriers who filed an anti-rebating certification on or before May 15, 1984 to file an additional certification before September 18, 1984 merely to comply with the recitation to be filed in their tariffs by that date that their compliance with the 1984 Act has been certified to the Commission. The Commission will, therefore, regard the anti-rebating certificate filed by each vessel operating common carrier on or before May 15, 1984 under the 1916 Act to constitute compliance with the requirement of the 1984 Act and § 582.2 for the 1984 annual certificate.

The NVO certification, being a new requirement, is a different matter. The Interim Rule required an NVO to file an anti-rebating policy statement in its tariff on or before September 18, 1984. Because that statement must make reference to the fact that a CEO certification has been filed with the Commission, it was our intention that the CEO certification also be filed on or before September 18, 1984. It now appears, however, that some confusion or uncertainty exists regarding what was actually required from NVO's by the Interim Rule. As a result and to allow NVO's adequate time to comply with the newly imposed certification requirement, the date by which NVO's must file the initial CEO certification and the date for all common carriers (including NVO's) to file the tariff provision under the 1984 Act shall be deferred until December 15, 1984. Further certifications will be required on May 15, 1985 and each subsequent May 15.

The Federal Maritime Commission has determined that this final rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

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

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

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

The Chairman of the Federal Maritime Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects in 46 CFR Part 582

Cargo, Cargo vessels, Exports, Foreign relations, Freight forwarders, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

These final rules are subject to review and editing of form before publication in the Code of Federal Regulations. Users are requested to notify the Commission of any omissions and typographical-type errors in order that corrections can be made before the Commission's CFR book goes to press in January 1985.

For the reasons set out in the preamble, and pursuant to the authority set forth in the Authority Citation, Part 582 of Subchapter D, Chapter IV of Title 46, Code of Federal Regulations is revised to read as follows:

PART 582—CERTIFICATION OF COMPANY POLICIES AND EFFORTS TO COMBAT REBATING IN THE FOREIGN COMMERCE OF THE UNITED STATES

Sec.
582.1 Scope.
582.2 Form of certification.
582.3 Tariff notification.
582.4 Reporting requirements.
582.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.
Appendix A to 46 CFR Part 582—Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States

Authority: 5 U.S.C. 553; secs. 2, 3, 8, 10, 13, 15, 16 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1701, 1702, 1707, 1709, 1712, 1714, 1715, and 1716).

§ 582.1 Scope.

(a) The requirements set forth in this part are binding upon every common carrier by water in the foreign commerce of the United States and, at the discretion of the Commission, will be applicable to any shipper, shippers' association, marine terminal operator, or broker.

(b) Information obtained under this part will be used to maintain continuous surveillance over common carrier activities and to provide a deterrent against rebating practices. Failure to file the required reports may result in a civil penalty of not more than $5,000 for each day such violation continues.

Note.—Ocean freight forwarders certify their anti-rebating polices and efforts pursuant to §§ 510.21 and 510.25 of this chapter.

§ 582.2 Form of certification.

The Chief Executive Officer, *i.e.* the most senior officer within the company designated by the board of directors, owners, stockholders or controlling body as responsible for the direction and management of the company, of each common carrier and, when so ordered at the discretion of the Commisson, the Chief Executive Officer of any shipper, shippers' association, marine terminal operator or broker, shall file with the Secretary, Federal Maritime Commission, a written certification, under oath, as set forth in the format in Appendix A to this part attesting to the following:

(a)(1) That it is the stated policy of the filing company that the payment, solicitation or receipt of any rebate by the company, which is unlawful under the provisions of the Shipping Act of 1984, is prohibited; and

(2) That such company policy was promulgated recently (together with the date of such promulgation) to each owner, officer, employee, and agent thereof;

(b) The details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(c) That the filing company will fully cooperate with the Commission in its efforts to end those illegal practices.

§ 582.3 Tariff notification.

(a) Each common carrier shall file a provision in each of its tariffs that shall read substantially as follows:

(Name of Company) has a policy against the payment of any rebate by the company or by any officer, employee, or agent thereof, which payment would be unlawful under the United States Shipping Act of 1984. Such policy has been certified to the Federal Maritime Commission in accordance with the

Shipping Act of 1984 and the regulations of the Commission set forth in 46 CFR Part 582.

(b) When the common carrier's tariff is a conference or rate agreement tariff, the common carrier shall ensure that the conference or rate agreement publishes the common carrier's tariff provision set forth in paragraph (a) of this section in the tariff.

(c) The anti-rebate tariff provision, as set forth in paragraph (a) of this section, shall be effective upon filing.

§ 582.4 Reporting requirements.

(a) Every common carrier required by this part to file a written certification as provided for in § 582.2 shall file such certification on or before May 15 of each year.

(b) Every person other than a common carrier who is ordered by the Commission to file a written certification under § 582.2 shall file the initial certification on the date designated by the Commission and, thereafter, as the Commission may direct.

§ 582.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement.

Section	Current OMB control No.
582.2 through 582.4	3072-0028

Appendix A to 46 CFR Part 582—Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States

(Name of Filing Company)

Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States

Pursuant to the requirements of section 15(b) of the Shipping Act of 1984, and Federal Maritime Commission regulations promulgated pursuant thereto, (46 CFR Part 582), I , Chief Executive Officer of (name of company), state under oath that:

1. It is the policy of (name of company) that the payment, solicitation, or receipt of any rebate which is unlawful under the provisions of the Shipping Act of 1984 is prohibited.

2. On or before , 19 , such company policy was promulgated to each owner, officer, employee and agent of (name of company) who is directly or indirectly connected with commercial ocean shipping, import or export sales or purchasing.

3. [Set forth the details of measures instituted by the filing company otherwise to eliminate or prevent the payment of illegal rebates in the foreign commerce of the United States].

4. (Name of company) affirms it will fully cooperate with the Federal Maritime Commission in any investigation of illegal rebating and with the Commission's efforts to end such illegal practices.

Chief Executive Officer

Subscribed and sworn to before me this day of 19 .

Notary Public

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-25023 Filed 9-19-84; 8:45]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Amdt. 195-32; Docket No. PS-79]

Transportation of Hazardous Liquids by Pipeline, Qualification of Welders

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Final rule.

SUMMARY: This amendment incorporates by reference Section IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) into Part 195 for qualification of welders. Welder qualification is presently limited to Section 3 of API Standard 1104 under Part 195. Allowing the use of the ASME Code for welder qualification when necessary and appropriate to do so will bring the requirements for hazardous liquid pipelines into line with 49 CFR Part 192, the Federal safety standards for gas pipelines.

EFFECTIVE DATE: October 22, 1984.

FOR FURTHER INFORMATION CONTACT: William A. Gloe, (202) 426-2082, regarding the content of this amendment, or the Dockets Branch, (202) 426-3148, regarding copies of the amendment or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1983, Mr. T.M. Stratton of the ARCO Oil and Gas Company, Aurora, Colorado, petitioned for a rule change to § 195.222, Welders: Testing, to allow the qualification of welders under Section IX of the ASME Code as an alternative to Section 3 of API 1104. API 1104 (the 15th edition) is the applicable Standard for Welding Pipelines and Related Facilities incorporated by reference in 49 CFR Part 195 for welder qualification (Section 3) and for standards of acceptability of welds (Section 6). API 1104 is also the applicable standard for pipeline welding for gas pipelines, Sections 3 and 6 similarly incorporated by reference into Part 192. In addition, Part 192 incorporates Section 2 for qualification of welding procedures. The other basic difference in welding requirements between the two Federal standards is that Part 192 incorporates by reference the ASME Code (1977 edition) for qualification of welding procedures and for welder qualification. The reason for allowing the use of the ASME Code under Part 192 and not under Part 195 is simply that the two Federal standards were based on industry consensus standards in effect at the time of issuance and the two industry standards also differed at that time. The 1967 edition of ANSI/ASME B31.4 (the USAS B31.4) was used as a basis for Part 195, and the 1968 edition of ANSI/ASME B31.8 (the USAS B31.8) was used as a basis for Part 192. ANSI/ASME B31.4, the industry standard for Liquid Petroleum Transportation Piping Systems, has since been revised to incorporate the ASME Code for welding procedure and welder qualification as an alternative to API 1104, using the ASME Code when the provisions are appropriate for the welding to be done.

Notice of Proposed Rulemaking (NPRM)

An NPRM published on May 10, 1984 (49 FR 19875), proposed to incorporate the ASME Code into Part 195 for welder qualification, based on the ARCO Oil and Gas Company petition. As justification in part, ARCO asserted that Part 195 should allow the use of the same provisions for welder testing that apply under ANSI/ASME B31.4, the industry standard for petroleum piping systems. The currently referenced edition of ANSI/ASME B31.4 (1977) allows welder testing under the ASME Code as well as under API 1104. The notice stated that API 1104 and the ASME Code have applied for gas pipelines since issuance of the Department of Transportation (DOT)

regulations in 1970, and there has been no problem, either in compliance, enforcement, or the appropriate use of either standard.

Discussion of Comments

Seven letter comments were received in response to the notice, one from the American Petroleum Institute (API), one from the Interstate Natural Gas Association of America, and five from oil and gas transportation operators. All commented favorably on the proposal to incorporate the ASME Code for welder qualification. One commenter, however, Mobil Oil Exploration & Producing Southeast, Inc., objected to listing the 1977 edition in the DOT regulations because the ASME Code has been revised, and suggested listing the "latest edition" only, without specifying the date of that edition. Though the 1983 edition of the ASME Code (with a 1984 supplement) is now the latest edition, incorporation of an edition later than 1977 was not discussed in the NPRM or considered by the Technical Hazardous Liquids Pipeline Safety Standards Committee (THLPSSC). Therefore, without further notice of review before the THLPSSC, a later edition may not be incorporated in the final rule. Also, MTB has no firm indication at this time that incorporating the 1977 edition imposes an actual burden on any operator with regard to qualification of welders. Moreover, six out of seven of the commenters to the notice did not object to listing the 1977 edition and the API made specific reference to the 1977 edition in their comment letter. For these reasons and for consistency with Part 192 for gas pipelines, the final rule incorporates the 1977 edition of the ASME Code. The final rule, however, recognizes earlier editions that could not have been incorporated into Part 195 by the language, "* * * a welder qualified under an earlier edition than listed in § 195.3 may weld but may not requalify under that earlier edition.

Advisory Committee Review

Section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) requires that the proposed amendment to § 195.222 be submitted for consideration by a 15-member advisory committee composed of persons knowledgeable about the transportation of hazardous liquids by pipeline. The committee considered the substance of the proposed amendment, as set forth in a Regulatory Project at a meeting in Washington, D.C., on December 7, 1983. In its report, dated March 7, 1984 (a copy of which is in the docket), the committee states:

This item for discussion proposes to add Section IX of the ASME Boiler Code (to) Part 195 for welder qualification, bringing Part 195 up to date with other standards and providing flexibility to the operator, who can determine where the ASME code is appropriate and where API 1104 is appropriate. It is agreed that the change had no adverse impact on safety standards, provides flexibility, giving judgement to the operator, and brings regulation into line with practice in the field.

The language used in the Regulatory Project for the proposed § 195.222 differed from the final rule in containing the phrase "whichever is appropriate for the type of welding to be performed" to differentiate between qualification under API 1104 or the ASME Code. Review of that phrase during the committee meeting, however, generally shows that the wording is not necessary and that the decision of which standard to use is left up to the operator. For this reason, and because the scope of each standard clearly defines the appropriate use, the phrase is omitted from the final rule.

Classification

This final rule is considered to be nonmajor under Executive Order 12291 and is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The rule merely modifies Part 195 requirements on welder qualification to be consistent with Part 192 and the commonly used industry codes.

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

List of Subjects in 49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Welders: Testing.

PART 195—[AMENDED]

On the basis of the foregoing, MTB amends Title 49 of the Code of Federal Regulations, Part 195, as follows:

1. By revising § 195.222 to read:

§ 195.222 Welders: Testing.

Each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code, except that a welder qualified under an earlier edition than listed in § 195.3 may weld but may not requalify under that earlier edition.

2. Section 195.3 is amended by revising paragraph (c)(2) to incorporate Section IX of the ASME Boiler and Pressure Vessel Code as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(c) * * *

(2) American Society of Mechanical Engineers:

(i) ASME Boiler and Pressure Vessel Code, Section VIII, "Pressure Vessels Division 1" (1977).

(ii) ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications" (1977).

* * * * *

(49 U.S.C. 2002; 49 CFR 1.53, and Appendix A of Part 1)

Issued in Washington, D.C., on September 14, 1984.

L.D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84-25017 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 31230-254]

Tanner Crab off Alaska; Notice of Season Opening

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

ACTION: Notice of season opening.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the desired harvest level of *Chionoecetes opilio* Tanner crab in the Northern Subdistrict of the Bering Sea District in Registration Area J has not yet been achieved and that additional fishing time is necessary if *C. opilio* stocks are to be fully utilized. The Secretary of Commerce therefore issues this notice opening the fishing season for *C. opilio* in the Northern Subdistrict by vessels of the United States until midnight December 31, 1984. This action is intended as an appropriate management measure to achieve the optimum yield.

DATE: This notice is effective 12:00 noon, Alaska Daylight Time (ADT) September 15, 1984. It was filed for public inspection with the Office of the Federal Register on September 17, 1984. Public comments on this notice of season opening are invited until October 1, 1984.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries

Service, P.O. Box 1668, Juneau, AK 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m. ADT weekdays) at: (1) The NMFS Kodiak Field Office, ADF&G Building, Kashevaroff and Mission Roads, Kodiak, Alaska, and (2) the NMFS Alaska Regional Office, Federal Building, Building 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Management Biologist, NMFS), 907–486–4791.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP), which governs this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments of season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that notices of these adjustments will be issued by the Secretary of Commerce under criteria set out in that section.

Section 671.26(f)(1) establishes six districts within Registration Area J. One of these is the Bering Sea District, which is further divided into three subdistricts for the purpose of better monitoring the fishery to conserve smaller units of crab stocks. One of these is the Northern Subdistrict, for which a desired harvest level of 24 million pounds of *C. opilio* is estimated, based on 1983 NMFS trawl abundance surveys.

The ending date of the fishing season for *C. opilio* normally is August 1. The 1984 season was extended by notice until August 22, 1984 (49 FR 30203, July 27, 1984), in response to requests from the North Pacific Fishing Vessel Owner's Association and the fishing industry for more fishing time in which to harvest the resource. The fishery was closed on that date to coordinate enforcement of the State of Alaska's blue king crab fishery, which was opened as scheduled on September 1, 1984. The notice extending the *C. opilio* season stipulated that the Regional Director would evaluate the results of the extended season and would reopen the fishery if further harvest was warrented. The total 1984 harvest of *C. opilio* in the Northern Subdistrict through August 22, 1984, was about 335,000 pounds, which is only about 1.4 percent of the 24 million pounds available for harvest.

Fishermen and processors have requested the Regional Director to reopen the fishery to allow additional opportunity to harvest the available resource. Because substantial amounts of *C. opilio* are unharvested, the current condition of *C. opilio* stocks remain good, a situation that was not anticipated at the beginning of the fishing year. The Secretary, therefore, reopens the fishery for *C. opilio* in the Northern Subdistrict [as described at § 671.26(f)(1)(vi)(C)] until midnight, December 31, 1984, when inclement weather and ice conditions will normally force this fishery to close.

This opening will be effective after this notice is filed for public inspection with the Office of the Federal Register and it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game. Public comments on this notice of season opening may be submitted to the Regional Director at the address stated above. If comments are received, a notice will be published in the Federal Register confirming this notice's continued effect, modifying it, or rescinding it.

Other Matters

Tanner crab stocks in the Northern Subdistrict will be subject to underharvest unless this season opens promptly. Loss of fishing time could have an adverse economic impact on Tanner crab fishermen and processors, many of whom have already been affected by declines in king crab stocks. The Agency, therefore, finds for good cause that advance opportunity for public comment on this notice is contrary to the public interest, and that no delay should occur in its effective date.

This action is taken under 50 CFR 671.27 and complies with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information request as defined in the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 671

Fisheries.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 14, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-24126 Filed 9-17-84; 11:14 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 184
Thursday, September 20, 1984

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 910

[Docket No. AO-144-A14-RO1]

Lemons Grown in California and Arizona

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Further Extension of Time for Filing Briefs.

SUMMARY: This extension of time is necessary to allow interested persons additional time to prepare and file briefs with respect to a hearing held on a proposed marketing agreement and amendments to the marketing order regulating the handling of lemons grown in California and Arizona.

DATE: The date by which written briefs must be postmarked is extended to October 15, 1984.

ADDRESS: Interested persons may send written briefs to the Hearing Clerk, Room 1077-South Building, USDA, Washington, D.C. 20250, where they will be available for inspection during business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, USDA, AMS, Washington, D.C. 20250, Telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: On February 28, 1984, the Administrative Law Judge presiding over the hearing on a proposed marketing agreement and amendments to the marketing order regulating the handling of lemons grown in California and Arizona set July 16, 1984, as the date by which interested persons could file briefs with respect to the hearing. Notice of the aforementioned hearing was published in the December 13, 1983, issue of the Federal Register (48 FR 55472).

Subsequently, a number of persons requested additional time to review the hearing record and prepare their briefs. Accordingly, on July 11, 1984, (49 FR 28566), the time for the filing of written briefs by all interested persons was extended to September 15, 1984.

A request for further extension of time to review the hearing record and prepare brief has been received. Accordingly, the time for the filing of written briefs by all interested persons is hereby extended to October 15, 1984.

List of Subjects in 7 CFR Part 910

Marketing orders, California, Arizona, Lemons.

(Secs. 1-19, 48 Stat 31, as amended; 7 U.S.C. 601-674)

Dated: September 18, 1984.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 84-25179 Filed 9-19-84; 9:05 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-98-AD]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require repetitive inspections and operational tests of the tailplane trim actuators on certain Airbus Industrie Model A300 series B2 and B4 airplanes. Incidents of broken actuator gears, damaged seals, and other in-service difficulties concerning the actuators have been reported. These actions are necessary to prevent jammed control surfaces which could lead to hazardous flight conditions.

DATES: Comments must be received no later than November 9, 1984.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France, or may also be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 431-2979. 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 below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-98-AD, 17900 Pacific Highway South, C-68966, Seattle Washington 98168.

Discussion

The French Civil Aviation Authority (DGAC) has issued a Consigne de Navigabilite which mandates compliance with Airbus Industrie Service Bulletins A300-27-130 and A300-27-132, and Lucas Aerospace Service Bulletins 723-27-584 and 723-27-582. Two items concerning the tailplane trim actuators can lead to hazardous flight condition, namely:

A. Tests done by the manufacturer have shown the potential for a dormant

failure mode on the autuators' control valves. This condition can lead to jammed control surfaces. Airbus Industrie Service Bulletin A300-27-132 prescribes repetitive operational tests on the actuators.

B. Broken actuator gears, damaged seals, and other in-service difficulties concerning the actuators have been reported. Airbus Industrie Service Bulletin A300-27-130 and Lucas Aerospace Service Bulletins 723-27-582 and 723-27-584 prescribe repetitive inspections of the actuators and component replacement and repairs, as necessary.

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

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspections and operational tests of the tailplane trim actuators to prevent jammed control surfaces.

It is estimated that 33 U.S. registered airplanes would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to the U.S. operators is estimated to be $13,200. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Part 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Airbus Industrie: Applies to model A300 B2 and B4 series airplanes, certificated in all categories. To detect failure of the trim actuators for the horizontal stabilizers, accomplish the following within 120 days after the effective date of this AD or upon reaching the number of hours time in service specified in the service bulletins, whichever occurs later, unless previously accomplished.

A. Inspect, test, repair, and modify, as necessary, the tailplane trim actuators, in accordance with the service bulletins listed below:

Airbus Industrie A300-27-130, Revision 2, dated October 10, 1980
Airbus Industrie A300-27-132, Revision 4, dated October 30, 1981
Lucas Aerospace 723-27-584, dated January 5, 1980
Lucas Aerospace 723-27-582, Revision 1, dated July 27, 1979

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

(Sec. 313(a), 314(a), 601, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department Transportation Regulatory Policies and Procedures (44 FR 110034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Airbus Industrie A300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, September 10, 1984.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-24359 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-95-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) which would require replacement of O-rings used in evacuation slide and slide/raft pressure regulators on Boeing Model 47 airplanes equipped with B.F. Goodrich slides and slide/rafts. This AD is prompted by several inflation malfunctions experienced by operators which have resulted in delayed inflation or non-inflation of the units following deployment. This situation could jeopardize successful emergency evacuation of an airplane.

DATES: Comments must be received on or before November 9, 1984. Compliance required within one year of the effective date of the AD.

ADDRESSES: The service documents cited in this AD may be obtained upon request from the B.F. Goodrich Engineered Products Group, Aerospace Defense Division, Akron, Ohio 44318, or the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 431-2932. Mailing address: FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, ANM-120S, 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 below. All comunications received on or before the closing date for comments, specified above, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD, 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 Federal Aviation Administration, Northwest Mountain Region, Attention: Airworthiness Rules Docket No. 84-NM-

95-AD, Office of the Regional Counsel, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Four operators have reported multiple inflation malfunctions of B.F. Goodrich evacuation slides and slide/rafts installed on Boeing Model 747 airplanes. These malfunctions are caused by decomposition of the O-rings in the pressure regulators installed on evacuation slides and slide/rafts (part numbers as indicated in the service bulletins referenced in this AD). The O-rings can chemically decompose and become bonded to the pressure regulator cylinder, thereby inhibiting actuation of the inflation mechanism. This can result in delaying or preventing inflation of the slide or slide/raft following deployment. This malfunction has been experienced in service and during tests conducted by airlines and the airplane manufacturer. Delays in inflation ranged from a few seconds to several minutes. In some cases, inflation was prevented entirely.

Since any delay or failure of inflation of the slides or slide/rafts could jeopardize successful evacuation of an airplane, an AD is being proposed which would require replacement of pressure regulator O-rings in accordance with B.F. Goodrich Service Bulletins 25-084, 25-088, and 25-090.

It is estimated that 150 planes of U.S. Registry would be affected by this AD. Approximately 40 manhours, at an average labor cost of $40 per manhour, would be required to modify each airplane. The cost of parts is estimated at $700 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $345,000.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291, Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Acordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to Model 747 airplanes equipped with B.F. Goodrich evacuation slides and slide/rafts, part numbers (P/N) as specified in B.F. Goodrich service bulletins noted below. Compliance required as indicate.

To assure proper inflation of slides and slide/rafts, within one year after the effective date of this amendment, accomplish the following unless previously accomplished.

A. For airplanes equipped with the B.F. Goodrich slides or slide/rafts noted in B.F. Goodrich Service Bulletin 25-090, Revision 1, dated May 10, 1984, replace pressure regulator O-rings in accordance with the service bulletin or later FAA approved revisions.

B. For Boeing Model 747-300 airplanes equipped with B.F. Goodrich slides, P/N 7A1323, accomplish regulator replacement in accordance with B.F. Goodrich Service Bulletin 25-084, dated November 7, 1983, or later FAA approved revisions.

C. For airplanes equipped with slide/rafts installed in accordance with Supplemental Type Certificates (STC) SA574GL, SA575GL, SA744GL, or SA745GL, accomplish pressure regulator O-ring replacement in accordance with B.F. Goodrich Service Bulletin 25-088, Revision 1, dated May 9, 1984, or later FAA approved revisions.

D. An alternate means of compliance which provides an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA Northwest Mountain Region.

E. Aircraft may be ferried to a base for maintenance in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

All persons affected by this directive who have not already received B.F. Goodrich Service Bulletin 25-084, 25-088, and 25-090, may obtain copies upon request to B.F. Goodrich Engineered Products Group, Aerospace Defense Division, Akron, Ohio 44318, or Boeing Commercial Airplane Company, P. O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 10, 1984.

Leroy A. Keith,

Acting Director Northwest Mountain Region.

[FR Doc. 84-24853 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-79-AD]

Airworthiness Directives; British Aerospace Model BAe-146 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This amendment proposes an airworthiness directive (AD) applicable to certain BAe-146 airplanes which would require a one-time inspection of the escape chute girt bars on the passenger/service doors to insure they are properly assembled. There have been two reported cases of the girt bar becoming detached from the floor brackets during a demonstration of the escape chute operation, resulting in separation of the chute from the airplane. Loss of the escape chute could prevent safe emergency evacuation of the airplane.

DATES: Comments must be received no later than October 9, 1984.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Librarian for Service Bulletins, Box 17414, Dulles International Airport, Washington, DC 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington; telephone (206) 431-2977. 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 below. All communications received on or before the closing date for comments specified

above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rule Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-79-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Civil Aviation Authority (CAA), which is the civil airworthiness authority for the United Kingdom, has classified British Aerospace BAe-146 Alert Service Bulletin 52-A14 as mandatory.

There have been two reported cases of the door girt bars becoming detached from the floor brackets during demonstration of escape chute operation, resulting in separation of the chute from the aircraft. There is evidence to show that this was a result of incorrect assembly of one of the girt bar stop bolts. It is necessary to examine all girt bars to ensure that these bolts have been assembled correctly.

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 Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection of the door girt bars for correct assembly.

It is estimated that eight airplanes of U.S. Registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are not required. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $3,200. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe-146 airplanes as listed in British Aerospace Alert Service Bulletin 52-A14 dated June 6, 1984, certificated in all categories. Compliance is required within 30 days after the effective date of this AD. To prevent loss of the emergency escape chute, accomplish the following, unless previously accomplished.

A. Inspect the passenger/service door girt bars for correct assembly in accordance with British Aerospace Alert Service Bulletin 52-A14, dated June 6, 1984. Reassemble as required by the service bulletin. Prior to installation, replacement girt bars must also be inspected in accordance with the service bulletin.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model BAe-146 airplanes are operated by small entities. A copy of a draft regulatory evaluation has been prepared for this action and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 6, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-24880 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-NM-87-AD]

Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require modification of the electrical power supply system in certain British Aerospace Model HS 125 series airplanes to ensure that electrical power is available to the audio communication system in the event of a principal electrical (PE) bus failure. This action is necessary to avoid loss of audio system communication between flight crew, ground personnel, and other aircraft. In certain weather conditions, this communication breakdown has the potential for creating a flight hazard.

DATES: Comments must be received no later than November 9, 1984.

ADDRESSES: The applicable service information may be obtained from British Aerospace Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may also be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 431-2979. 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 and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available,

both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-87-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Airworthiness Authority (CAA) has, in accordance with existing provisions of a bilateral agreement, informed the FAA of an unsafe condition on certain British Aerospace Model HS/BH/DH 125 Series airplanes which must be corrected by complying with Bristish Aerospace HS 125 Service Bulletin 23-21-(8765). The unsafe condition and corrective action are described as follows:

In the event of a principal electrical (PE) bus failure, the audio system communication between the flight crew, ground personnel, and other aircraft would be lost. These airplanes normally fly in airspace that contains a high number of other aircraft and usually fly under IFR conditions. The loss of communication with airport tower personnel would make the congested airspace near the airport unsafe. To prevent loss of communication from occurring, British Aerospace HS 125 Service Bulletin 23-21-(8765) prescribes incorporation of fuse or circuit breaker linking changes so that electrical power for the audio communication system is transferred from the PE bus to the principal service (PS) electrical bus if PE bus failure occurs. The manufacturer has issued paragraphs 2 and 3 of the service bulletin in the form of supplements, applicable to individual or grouped aircraft; this was necessary due to variations in the audio integrating systems. The serial numbers of the airplanes affected by Service Bulletin 23-21-(8765) and the corresponding supplements are listed in Planning Information of the service bulletin.

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 Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist on airplanes of this model registered in the United States, an AD is proposed that would require the previously mentioned corrective action.

It is estimated that 86 U.S. registered airplanes would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Parts are estimated at $100 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $15,480. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

British Aerospace: Applies to British Aerospace Model HS/BH/DH 125 series airplanes with the serial numbers listed in the applicability statement of British Aerospace HS 125 Service Bulletin 23-21-(8765), dated March 22, 1983. Compliance is required within 180 days after the effective date of this AD unless previously accomplished. To prevent failure of the audio communication system, accomplish the following:

A. Modify the power supply system in accordance with the accomplishment instructions of the service bulletin.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, British Aerospace Model HS/BH/DH 125 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 10, 1984.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-24854 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-80-AD]

Airworthiness Directives: Canadair Model CL-600-1A11 (CL-600) and CL-600-2A12 (CL-601) Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require removing paint from the wing center section lower surface if that surface is not properly finished. This surface must be finished using an aluminum loaded paint and primer, or left unpainted. This action is necessary to provide adequate lightning protection for the lower wing center section skin surface and prevent sparking in the fuel tank.

DATES: Comments must be received no later than October 10, 1984.

ADDRESSES: The applicable drawings specified in this AD may be obtained upon request from Canadair Limited, 1800 Laurentien Blvd., Saint-Laurent, Quebec, Canada H4R 1K2, or may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 431-2977. 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 below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-80-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion:

The Canadian Department of Transport (DOT) has issued AD CF-84-06, requiring removal of any incorrect finish applied to the lower wing center section surface of Model CL-600-1A11 and CL-600-2A12 airplanes within six calendar months. This finish must be removed and replaced with an aluminum loaded paint or, alternatively, the surface must be left unpainted. Until the finish modification is accomplished, a placard must be installed in the cockpit prohibiting flight into areas where lightning conditions are known to exist.

Tests and analysis indicate that the skin thickness of the lower wing center section, which is between .050 and .060 inches, may not be adequate to protect the fuel tank at that location from lightning swept strokes, if a paint with insufficient conductivity is applied, since stroke attachment may build up enough energy to cause sparking on the inside of the fuel tank which could ignite vapors.

The Canadian DOT issued AD CF-84-06, which requires removal of the wing center section lower surface paint if the surface was improperly finished.

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

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed which requires the proper finishing of the wing center section lower surface.

It is estimated that approximately 50 airplanes would be affected by this AD, that it would take approximately 40 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Materials are estimated at $600 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $110,000. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Canadair: Applies to all Canadair Model CL-600-1A11 (CL-600) and CL-600-2A12 (CL-601) airplanes certificated in all categories. Compliance is required as indicated unless already accomplished. To provide adequate lightning protection for the wing center section lower skin in the area of the center wing fuel tank (i.e., forward, center, aft lower wing panels between wing stations 65 left and 65 right), accomplish the following:

A. Within 30 days after the effective date of this AD, unless the center wing fuel tank skin surface is unpainted or has been painted in accordance with NOTE 11 of Canadair Drawing 600-40452 or 601-40452, install a locally manufactured placard on the left hand main instrument panel using letters of ⅛-inch minimum height, which reads as follows: "NOT APPROVED FOR FLIGHT INTO AREAS WHERE LIGHTING CONDITIONS ARE KNOWN TO EXIST."

B. Within the next six calendar months after the effective date of this AD, ensure that the center wing fuel tank lower skin surface is either unpainted or painted with an aluminum loaded paint and primer, in accordance with NOTE 11 of Canadair Drawings 600-40452 or 601-40452.

C. Upon completion of paragraph B, above, remove placard installed in accordance with paragraph A., above.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Canadair CL 600 or CL 601 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 10, 1984.

Leroy A. Keith,

Acting Director Northwest Mountain Region.

[FR Doc. 84-24332 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-88-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require modification of the battery charger on certain McDonnell Douglas Model DC-9 and C-9 (Military) airplanes. Six incidents of battery charger failures have been recently reported. Since all six failed battery chargers showed evidence of overheat, this action is necessary to prevent the potential for a localized fire and the potential loss of both the Battery Direct and Battery Buses which provide emergency electrical power.

DATES: Comments must be received no later than November 9, 1984. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach,

California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. George Y. Mabuni, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2831.

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 under the caption "Availability of NPRM." All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-88-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During the period March 9, 1983, through March 19, 1984, five DC-9 operators have reported six battery charger failure incidents that have been attributed to failure of electromagnetic interference (EMI) filter capacitor C17 in the Sundstrand P/N 26340061-04 battery charger. Capacitor C17 is an 8 mfd, 200 Vdc metalized polycarbonate capacitor. Although all six reported failures were discovered on the ground, this type of failure can occur in flight. Five of the six battery charger failures were discovered when smoke was observed coming from the EE compartment where the battery charger and the main aircraft batteries are located. The other battery charger failure was discovered when the battery charger circuit breaker had opened. All of the failed battery chargers showed evidence of overheat.

In three incidents, the battery meter shunt S4-1 opened, acting as a fuse between the main aircraft batteries and the failed battery charger. The opened battery meter shunt electrically disconnected the Battery Direct Bus from the main aircraft batteries resulting in the loss of both the Battery Direct and Battery Buses.

Sundstrand's investigations of the failed battery chargers revealed that the primary cause of all the failures was the failure of EMI filter capacitor C17. When C17 failed, the capacitor's metallic case ruptured, forcing its positive cap and terminal into contact with a ground terminal mounted adjacent to the capacitor, and shorting the output of the battery charger. This also caused a short circuit with only the filter choke in series with the main aircraft batteries. This fault resulted in extreme heat generation and combustion of adjacent epoxy encapsulated components within the battery charger.

Therefore, in consideration of the potentially hazardous consequence of this type of fault, the proposed AD is considered to be necessary. Sundstrand Service Bulletin 26340061-24-2 dated Feburary 24, 1984, as referenced by McDonnell Douglas DC-9 Service Bulletin 24-73, dated March 21, 1984, was released to modify the Sundstrand P/N 26340061-04 battery chargers. The modification consists of removing EMI filter capacitor C17 from all Sundstrand P/N 26340061-04 battery chargers. Analysis and testing has indicated that capacitor C17 is not required for EMI suppression. The proposed AD has two compliance periods in which to modify the battery chargers; the shorter compliance period is required for battery chargers having certain specific capacitors which have demonstrated a higher failure rate than the others. The affected battery chargers' serial numbers are listed in Section I, paragraph 4.A. of Sundstrand Service Bulletin 26340061-24-2. The longer compliance period is required for all other Sundstrand P/N 26340061-04 battery chargers.

Cost Estimate

The estimated costs associated with the proposed AD are as follows: Six hundred forty-seven airplanes of U.S. Registry are affected which would require approximately one manhour per airplane to accomplish the modification at an average labor charge of $40 per manhour. Based upon these figures, the economic impact of this proposed AD on U.S. operators is estimated to be $25,880.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive (AD):

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9 and C-9 (Military) airplanes, certificated in all categories, equipped with Sundstrand P/N 26340061-04 battery charger. Compliance required as indicated, unless previously accomplished.

To prevent the potential for a localized fire and the potential loss of the Battery Direct and Battery Buses which provide emergency electrical power, accomplish the following:

A. Within 90 days after the effective date of this AD, modify Sundstrand P/N 26340061-04 battery chargers whose serial numbers are listed in Section I, paragraph 4.A. of Sundstrand Service Bulletin 26340061-24-2 dated February 24, 1984, in accordance with the Accomplishment Instructions of the Sundstrand service bulletin as referenced by McDonnell Douglas DC-9 Service Bulletin 24-73, dated March 21, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Within 180 days after the effective date of this AD, modify all other Sundstrand P/N 26340061-04 battery chargers not affected by paragraph A. of this AD, in accordance with the Accomplishment Instructions of Sundstrand Service Bulletin 26340061-24-2 dated February 24, 1984, as referenced by McDonnell Douglas DC-9 Service Bulletin 24-73, dated March 21, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this proposal who have not already received these

documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC-9 and C-9 (Military) airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on September 10, 1984.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-24855 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AWA-2]

Proposed Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several airways located in the vicinity of Athens, GA, by deleting some alternate airway segments and renumbering other alternate airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System. This notice is one of three parts. Airspace Dockets numbered 84-AWA-1 and 84-AWA-3 are the remaining two parts.

DATES: Comments must be received on or before October 29, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 84-AWA-2, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

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, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

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. 84-AWA-2." 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.

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 Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of Athens, GA, by deleting all alternate route designations, renumbering some airway segments and revoking airway segments that are not required. This action supports our agreement with ICAO to eliminate all alternate route designations from the National Airspace System. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

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

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-49 [Revised]

From Vulcan, AL, via Decatur, AL; Nashville, TN; Bowling Green KY; Mystic, KY; to Nabb, IN.

V-51 [Amended]

By removing the words "Harris; Hinch Mountain, TN, including a west alternate from the INT Anderson, SC, 274° and Athens 340° radials to Hinch Mountain via INT Anderson 274° and Hinch Mountain 160° radials; Livingston, TN; "and substituting the words "Harris; Hinch Mountain, TN; Livingston, TN"

V-66 [Amended]

By removing the words "Raleigh-Durham, NC, including a south alternate from Athens, GA, to Raleigh-Durham via INT Athens 092° and Greenwood, SC, 240° radials, Greenwood and Sandhills, NC; " and substituting the words "Raleigh-Durham, NC;"

V-409 [New]

From Athens, GA, via INT Athens 092°T(092°M) and Greenwood, SC, 240°T(241°M) radials; Greenwood; Sandhills, NC; to Raleigh-Durham, NC.

V-35 [Amended]

By removing the words "Fort Myers; St. Petersburg, FL, including a W alternate; via INT Fort Myers 311° and Sarasota, FL, 156° radials, Sarasota, St. Petersburg; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City, including an E alternate via Gainesville, FL; "and "Holston Mountain, TN, including a west alternate via INT Sugarloaf Mountain 329° and Holston Mountain 203° radials; Glade Spring, VA;" and substituting the words "Fort Myers; St Petersburg, FL; INT St. Petersburg 350°T(349°M) and Cross City, FL, 168°T(167°M) radials; Cross City, FL;" and "Holston Mountain, TN; Glade Spring, VA;"

V-364 [New]

From Sugarloaf Mountain, NC, via INT Sugarloaf Mountain 329°T(331°M) and Holston Mountain, TN, 203°T(207°M) radials; Holston Mountain.

V-20 [Amended]

By removing the words "Spartanburg, SC, including a north alternate from Montgomery to Spartanburg Via INT Montgomery 029° and Chattanooga. TN, 189° radials; INT Chattanooga 189° and Rome, GA, 252° radials; Rome; INT Rome 060° and Toccoa, GA, 258° radials; Toccoa to Spartanburg;" and substituting the words"Spartanburg, SC;"

V-415 [New]

From Montgomery, AL, via INT Montgomery 029°T(026°M) and Chattanooga, TN, 189°T(188°M) radials; INT Chattanooga 189°T(188°M) and Rome, GA 252° radials; Rome; INT Rome 060°T(059°M) and Toccoa, GA, 258°T(258°M) radials; Toccoa; to Spartanburg, SC.

V-417 [New]

From Monroe, LA, via INT Montgomery 105°T(099°M) and Jackson, MS. 256°T(251°M) radials; Jackson. From Meridian, MS; Tuscaloosa, AL; Vulcan, AL; Rome, GA; INT Rome 060°T(059°M) and Electric City, SC, 274°T(274°M) radials; INT Electric City 274°T(274°M) and Athens, GA, 340°T(340°M) radials; Athens; INT Athens 109°T(109°M) and Augusta, GA, 294°T(298°M) radials; Augusta; INT Augusta 148°T(152°M) and Allendale, SC, 273°T(274°M) radials; Allendale; to Charleston, SC.

V-427 [New]

From Monroe, LA, via INT Monroe 075°T(069°M) and Jackson, MS, 286°T(281°M); to Jackson.

V-18 [Amended]

By removing the words "Jackson, MS, including a N alternate and also a S alternate; Meridian, MS, including a S alternate; Tuscaloosa, AL; Vulcan, AL; Talladega, AL; Atlanta, GA; INT Atlanta 089° and Augusta, GA, 278° radials; Augusta, including a north alternate from Vulcan to Augusta, via Rome, GA, INT Rome 060° and Anderson, SC, 274° radials; INT Anderson 274° and Athens, GA, 340° radials; Athens, and INT Athens 109° and Augusta 294° radials; INT Augusta 103° and Charleston, SC, 296° radials; Charleston, including a S alternate from Augusta to Charleston via INT Augusta 148° and Allendale, SC, 273° radials, and Allendale, "and substituting the words "Jackson, MS; Meridian, MS; Tuscaloosa, AL; Vulcan, AL; Talladega, AL, Atlanta, GA; INT Augusta 089°T(089°M) and Augusta, GA, 278°T(282°M) radials; Augusta; INT Augusta 103°T(107M) and Charleston, SC, 296°T(298°M) radials; Charleston,"

V-94 [Amended]

By removing the words "Monroe, LA; Greenville, MS, including a S Alternate; Holly Springs, MS, including a N alternate via INT Greenville 021° and Holly Springs 268° radials;" and substituting the words "Monroe, LA; Greenville, MS; Holly Springs, MS;"

V-397 [New]

From Monroe, LA, via INT Monroe 056°T(050°M) and Greenville, MS, 207°T(203M); Greenville; INT Greenville 021°T(017°M) and Holly Springs, MS, 268°T(265°M) radials; to Holly Springs.

V-97 [Amended]

By removing the words "From Miami, FL; La Belle, FL, including an E alternate via INT Miami 337° and La Belle 124° radials; St. Petersburg, FL;" and substituting the words "From Miami, FL, via La Belle, FL; St. Petersburg, FL;"

V-157 [Amended]

By removing the words "Miami, FL; La Belle, FL;" and substituting the words "Miami, FL; INT Miami 337°T(337°M) and La Belle, FL, 124°T(123°M) radials; La Belle;"

V-441 [Amended]

By removing the words "Ocala, including an E alternate via INT St. Petersburg 040° and Ocala 182° and substituting the words "to Ocala"

V-152 [Amended]

By removing the words "Ormond Beach, including a S alternate via Lakeland, FL, Orlando, FL; INT Orlando 049° and ormond Beach 161° radials." and substituting the words "Ormond Beach."

V-533 [New]

From St. Petersburg, FL, via Lakeland, FL; Orlando, FL; INT Orlando 049°T(049°M) and Ormond Beach, FL, 161°T(161°M) radials; to Ormond Beach.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on September 6, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-24882 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 84N-0094]

Pickled Cucumbers; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for pickled cucumbers based on the Codex Alimentarius Commission Standard for Pickled Cucumbers (Codes Standard 115-1981) (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 24, 1984 (49 FR 17519), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex Standard for Pickled Cucumbers and to comment on the desirability of and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for

acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Two comments were received from a trade association and a food producer in response to the advance notice of proposed rulemaking. Both comments opposed the establishment of a U.S. standard of identity for pickled cucumbers.

Having considered all the comments received, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for pickled cucumbers under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for pickled cucumbers based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for pickled cucumbers upon appropriate justification.

FDA will inform the Codex Alimentarious Commission that an imported food that complies with the requirements of the Codex Standard for Pickled Cucumbers may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: September 13, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-24875 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 155 and 158

[Dockets No. 84N-0086]

Edible Fungi and Fungus Products; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for edible fungi and fungus products based on the Codex General Standard for Edible Fungi and Fungus Products (Codex Standard 38-1981) (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St., SW., Washington, D.C. 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 19, 1984 (49 FR 15568), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex General Standard for Edible Fungi and Fungus Products and to comment on the desirability of and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission. No comments were received in response to the advance notice of proposed rulemaking.

Having received no comments or other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for edible fungi and fungus products under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commission of Food and Drugs has terminated consideration of developing a U.S. standard for edible fungi and fungus products based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for edible fungi and fungus products upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex General Standard for Edible Fungi and Fungus Products may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: September 13, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-24870 Filed 9-19-84; 8:45am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 220, 221, 231, and 232

[Docket No. R-84-1185; FRL-1871]

Mortgagor Risk on HUD-Insured Projects

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

ACTION: Proposed rule.

SUMMARY: HUD regulations governing the insurance of mortgages for newly constructed and substantially rehabilitated multifamily rental housing (Parts 207, 220, 221, and 231) and nursing homes (Parts 232) would be amended by this proposed rule. The regulations currently permit profit-motivated and limited distribution mortgagors to obtain insured, non-recourse loans of up to 90 percent of value or replacement cost. This proposed rule would change this policy by limiting mortgages for such mortgagors to 85 percent of value or replacement costs, *except* in any case where the mortgagor agrees either to accept limited personal liability for loan repayment or to establish a special rent-up escrow.

DATES: *Comments due:* November 19, 1984.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, Room 6132, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755-6500. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The HUD General Insurance Fund has sustained substantial net losses in recent years. The Department has determined that, as part of an effort to curtail such losses in the future, its risks

under a number of the multifamily mortgage insurance programs covered by the Fund must be diminished.

HUD has considered two basic approaches to improving its multifamily mortgage insurance programs. One approach would be to increase the HUD mortgage insurance premium (MIP) to a level more reflective of actual claims experience under the programs. A second approach would be to institute program changes designed to discourage defaults and to help assure the financial viability of newly constructed or substantially rehabilitated projects. Recognizing that a significant increase in the MIP could have an adverse effect on the feasibility of projects, HUD has decided not to raise the MIP at this time. Instead, the Department proposes to pursue the latter of these two approaches.

The Department has concluded that the key to reducing the number of multifamily mortgage insurance claims is to provide an inducement to mortgagors to strengthen their motivation to avoid mortgage defaults. HUD therefore proposes to require profit-motivated and limited distribution mortgagors, the primary users of the multifamily mortgage insurance programs, to assume a greater share of the financial risk associated with the development and operation of their HUD-insured projects.

This rule would prohibit a profit-motivated or limited distribution mortgagor from obtaining a HUD-insured mortgage covering a multifamily rental housing project, nursing home or intermediate health care facility which is in excess of 85 percent of value or replacement cost, as the case may be, *unless* the mortgagor agrees either to (1) escrow an amount equal to three percent of the mortgage amount to provide additional security against shortfalls in project income before achievement of sustaining occupancy, *or* (2) assume personal liability for repayment of a percentage of the outstanding mortgage amount, determined in accordance with the following sliding scale:

Loan-to-value (cost)	Percent personal liability
More than 85% but not more than 86%	2
More than 86% but not more than 87%	4
More than 87% but not more than 88%	6
More than 88% but not more than 89%	8
More than 89% but not more than 90%	10

A mortgagor choosing the escrow option would be required to have the full three percent available for project use by the time of initial endorsement. The escrow could be funded only by cash or an unconditional, irrevocable letter of credit, except that, for the period between initial and final endorsement, the mortgagee could permit the mortgagor to satisfy the escrow requirement by providing a personal note in the necessary amount executed by the individuals comprising the mortgagor entity (excluding limited partners) with such individuals being jointly and severally liable. The full amount of the escrow would be required to remain available for project use (i.e., to cover project costs, including debt service, if project revenues were insufficient to do so) until the project achieved sustaining occupancy and showed a positive cash flow for a period of 120 days, at which time one half of the escrow balance could be released with HUD approval; the remainder of the escrowed funds could be released 120 days thereafter, provided that HUD determined there had been no interruption in the sustaining occupancy and positive cash flow condition of the project. If, at any time after initial endorsement and before such final release of the escrow, the mortgagee claimed insurance benefits as a result of a default, the mortgagee's insurance benefits would be reduced, in accordance with 24 CFR 207.259(b)(2)(iii) or 207.259(c), by the amount of the escrow balance.

A mortgagor selecting the option of limited personal liability would execute a mortgage or deed of trust note and mortgage or deed of trust containing a provision requiring personal liability based on the total unpaid mortgage indebtedness at the time of default. Consequently, the promissory note would contain provisions describing recourse as well as nonrecourse liability. Under these circumstances, the Internal Revenue Service has ruled that the note will be treated for purposes of Treas. Reg. section 1.752-1(e) as two separate obligations, one of which will be treated as a recourse obligation and the other as a nonrecourse obligation. Therefore, a limited partner's basis for his limited partnership interest may be increased by his proportionate share of that part of the original amount of the promissory note that is treated as a separate nonrecourse liability. See Rev. Rul. 84-118, 1984-32 I.R.B. 14.

As a technical matter, this rule also corrects certain inaccurate cross references contained in §§ 207.258(b)(4)(iv) and 207.259(b)(2)(iii) of Part 207.

The provisions of this proposed rule do not apply, as drafted, to the Parts 251 and 255 coinsurance programs. The Department intends, however, to add such provisions in the final rule and invites public comment on this question.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

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

Under the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a number of optional ways to meet its requirements, and the additional investment or risk imposed on small mortgagors or mortgagees is not considered substantial.

This rule was listed as item number 74 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15923) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, and 14.155.

List of Subjects

24 CFR Part 207

Mortgage insurance, Mobile home parks.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs: housing and community development, Projects.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 231

Aged, Mortgage insurance.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs: health, Loan programs: housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

Accordingly, 24 CFR Parts 207, 220, 221, 231 and 232 are proposed to be amended as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. In § 207.4, paragraph (a)(1) is revised to read as follows:

§ 207.4 Maximum mortgage amounts.

(a) * * *

(1)(i) In the case of a public nonprofit mortgagor, or in the case of a limited dividend public mortgagor or a private mortgagor meeting the requirements of § 207.19(g), 90 percent of the estimated value (90 percent of replacement cost if the project is located in Alaska or Guam) of the project;

(ii) In the case of a limited dividend public mortgagor or a private mortgagor not meeting the requirements of § 207.19(g), 85 percent of the estimated value (85 percent of replacement cost if the project is located in Alaska or Guam) of the project; or

* * * * *

2. In § 207.19, paragraph (g) is revised to read as follows:

§ 207.19 Required supervision of private mortgagors.

* * * * *

(g) *Additional obligation of mortgagor.* To obtain a mortgage amount greater than 85 percent of value (85 percent of replacement cost, where appropriate), the mortgagor shall, in addition to making any other deposits and assurances required under paragraph (c) of this section, at or before initial endorsement in insurance of advances cases (initial/final endorsement in insurance on completion cases), either:

(1) Deposit with the mortgagee in a special escrow an amount equal to three percent of the original principal amount of the mortgage. Such amount may be reduced at final endorsement in insurance on advances cases if, as a result of cost certification, there is a reduction in the original principal amount of the mortgage. Such fund shall be available, if necessary, to help cover operating and maintenance expenses of the project before its achievement of sustaining occupancy and a positive cash flow. Upon a finding by the Commissioner that the condition of the project is such that sustaining occupancy and a positive cash flow have been achieved and have been maintained for a period of at least 120 days, one half of the balance in the fund may be released to the mortgagor. Upon a further finding by the Commissioner that sustaining occupancy and positive cash flow continue to be maintained for a period of at least 120 days thereafter, the remaining balance of the fund may be released to the mortgagor. In lieu of a cash deposit, the mortgagee may accept an unconditional, irrevocable letter of credit issued to the mortgagee by a banking institution. In the event a demand under the letter of credit is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance thereunder. The mortgagee may also, for the limited period between initial and final endorsement of the mortgage in insurance of advances cases, accept the personal note of the mortgagor in lieu of a cash deposit or an unconditional, irrevocable letter of credit. The note must be executed by the individuals comprising the mortgagor entity, that is, the principal officers of a corporate mortgagor or the general partners of a partnership mortgagor, which individuals shall be jointly and severally liable under the note. In the event of a default resulting in the mortgagee's claim for insurance benefits during any time when this special escrow is in effect, the balance in the escrow will be treated as a cash item and the mortgagee's insurance benefits shall be reduced by the amount of such balance in accordance with § 207.259(b)(2)(iii) or § 207.259(c) of this part, or;

(2) Accept personal liability, as evidenced by appropriate provision in the mortgage or deed of trust note and the mortgage or deed of trust, based on the total unpaid mortgage indebtedness at the time of default, in the following percentages:

Loan-to-value (cost)	Percent personal liability
More than 85% but not more than 86%	2
More than 86% but not more than 87%	4
More than 87% but not more than 88%	6
More than 88% but not more than 89%	8
More than 89% but not more than 90%	10

(3) The provisions of this paragraph (g) shall also apply to public mortgagors that are limited dividend corporations.

3. In § 207.258, paragraph (b)(4)(iv) is revised to read as follows:

§ 207.258 Insurance claim requirements.

* * * * *

(b) * * *

(4) * * *

(iv) All property of the mortgagor held by the mortgagee or to which it is entitled (other than the cash items which are to be retained by the mortgagee) under paragraph (b)(5) of this section.

* * * * *

4. In § 207.259, paragraph (b)(2)(iii) is revised to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(b) * * *

(2) * * *

(iii) The sum of the cash items retained by the mortgagee under § 207.258(b)(5), except the balance of the mortgage loan not advanced to the mortgagor.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

5. In § 220.508, paragraphs (a) through (c) are revised to read as follows:

§ 207.508 Maxiumum mortgage amount—loan-to-value limitations.

* * * * *

(a) *Approved new construction.* 85 percent (90 percent in the case of a public nonprofit mortgagor, or in the case of a limited dividend public mortgagor or a private mortgagor meeting the requirements of § 207.19(g)) of the Commissioner's estimate of the replacement cost of the property or project when the proposed improvements are completed, if the project is approved for mortgage insurance before the beginning of construction. The replacement cost of the property or project (1) may include the land, the proposed physical improvements, utilities within the bboundaries of the property or project, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Commissioner and (2) shall include an allowance for builder's and sponsor's profit and risk to be detemined by totaling the foregoing items, with the exception of the land, and applying the percentage or percentages specified in § 220.513.

(b) *Nonapproved new construction.* 85 percent (90 percent in the case of a public nonprofit mortgagor, or in the case of a limited dividend public mortgagor or a private mortgagor meeting the requirements of § 207.19(g))

of the Commissioner's estimate of the value of the property or project when the proposed improvements are completed, if the project is under construction and was not approved for mortgage insurance before the beginning of construction.

(c) *Repair and rehabilitation.* 85 percent (90 percent in the case of a public mortgagor or in the case of a limited dividend public mortgagor or a private mortgagor, meeting the requirements of § 207.19(g)) of the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property or project before repair and rehabilitation.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

6. In § 221.514, paragraphs (a)(2) (ii) and (iii), and (a)(3) and (a)(4) are revised to read as follows:

§ 221.514 Maximum mortgage amounts.

(a) * * *

(2) *New construction.*

(i) * * *

(ii) In the case of new construction where the mortgage is to be insured under section 221(d)(3) or section 221(d)(4) and the mortgagor is a general or a limited distribution mortgagor, 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 221.531(d) or § 221.532(d)) of the Commissioner's estimate of the replacement cost of the property or project when the proposed improvements are completed. The replacement cost (A) may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneaous charges incident to construction and approved by the Commissioner and (B) shall include an allowance for builder's and sponsor's profit and risk of 10 percent of the foregoing items exclusive of land unless the Commissioner after determining such allowance is unreasonable, prescribes a lesser percentage.

(iii) In the case of new construction where the mortgage is to be insured under section 221(d)(4), (A) if the mortgagor is a nonprofit, public, or cooperative mortgagor, 90 percent of the Commissioner's estimate of the replacement cost of the property or project when the proposed improvements are completed, (B) if the mortgagor is a builder-seller or investor-sponsor mortgagor, 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 221.532(d)) of the Commissioner's estimate of the replacement cost of the property or project when the proposed improvements are completed. The replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction and other miscellaneous charges incident to construction and approved by the Commissioner.

(3) *Repair or rehabilitation.* (i) In the case of a project which is to be repaired or rehabilitated where the mortgage is to be insured under section 221(d)(3) and the mortgagor is a nonprofit, public, or cooperative mortgagor, the sum of the estimated cost of the repairs or rehabilitation of the project and the Commissioner's estimate of the value of the property before repairs or rehabilitation.

(ii) In the case of a project which is to be repaired or rehabilitated where the mortgage is to be insured under section 221(d)(3) or section 221(d)(4) and the mortgagor is a general, limited distribution, builder-seller or investor-sponsor mortgagor, 85 (90 percent in the case of a mortgagor meeting the requirements of § 221.531(d) or § 221.532(d)) of the sum of the estimated cost of the repairs and rehabilitation of the project and the Commissioner's estimate of the value of the property before repair and rehabilitation.

(iii) In the case of a project which is to be repaired or rehabilitate where the mortgage is to be insured under section 221(d)(4) and the mortgagor is a nonprofit, public, or cooperative mortgagor, 90 percent of the sum of the estimated cost of the repairs and rehabilitation of the project and the Commissioner's estimate of the value of the property before repair and rehabilitation.

(4) *Purchase from local public agency.* If the mortgage involves the financing of the purchase of property which has been rehabilitated by a local public agency with federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949, the mortgage shall not exceed the following amounts:

(i) Where the purchaser is a mortgagor other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(3), the appraised value of the property as of the date the mortgage is accepted for insurance, or the actual cost of acquisition, whichever amount is the lesser.

(ii) Where the purchase is a general or limited distribution mortgagor, 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 221.531(d) or § 221.532(d)) of the appraised value of the property, as of the date the mortgage is accepted for insurance, or 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 221.531(d) or § 221.532(d)) of the actual cost of acquisition as approved by the Commissioner, whichever amount is the lesser.

(iii) Where the purchaser is other than a general or limited distribution mortgagor and the mortgage is to be insured under section 221(d)(4), 90 percent of the appraised value of the property, as of the date the mortgage is accepted for insurance, or 90 percent of the actual cost of acquisition as approved by the Commissioner, whichever amount is the lesser.

* * * * *

7. In § 221.531, paragraph (d) is revised to read as follows:

§ 221.531 Supervision applicable to general mortgagors.

* * * * *

(d) *Additional obligation of mortgagor.* Where the mortgage amount is greater than 85 percent of replacement cost, the mortgagor shall, in addition to making any other deposits and assurances required under this part, at or before initial endorsement in insurance of advances cases (initial/final endorsement in insurance on completion cases) either:

(1) Deposit with the mortgagee in a special escrow an amount equal to three percent of the original principal amount of the mortgage. Such amount may be reduced at final endorsement if, as a result of cost certification, there is a reduction in the original principal amount of the mortgage. Such fund shall be available, if necessary, to help cover operating and maintenance expenses of the project before its achievement of sustaining occupancy and a positive cash flow. Upon a finding by the Commissioner that the condition of the project is such that sustaining occupancy and a positive cash flow have been achieved and have been maintained for a period of at least 120 days, one half of the balance in the fund may be released to the mortgagor. Upon a further finding by the Commissioner that sustaining occupancy and positive cash flow continue to be maintained for a period of at least 120 days thereafter, the remaining balance of the fund may be released to the mortgagor. In lieu of a cash deposit the mortgagee may accept an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. In the event a

demand under the letter of credit is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance thereunder. The mortgagee may also, for the limited period between initial and final endorsement of the mortgage in insurance of advances cases, accept the personal note of the mortgagor in lieu of a cash deposit or an unconditional, irrevocable letter of credit. The note must be executed by the individuals comprising the mortgagor entity, that is, the principal officers of a corporate mortgagor or the general partners of a partnership mortgagor, which individuals shall be jointly and severally liable under the note. In the event of a default resulting in the mortgagee's claim for insurance benefits during any time when this special escrow is in effect, the balance in the escrow will be treated as a cash item and the mortgagee's insurance benefits shall be reduced by the amount of the such balance in accordance with § 207.259(b)(2)(iii) or § 207.259(c) of this chapter or;

(2) Accept personal liability, as evidenced by appropriate provision in the mortgage or deed of trust note and the mortgage or deed of trust, based on the total unpaid mortgage indebtedness at the time of default, in the following percentages:

Loan-to-cost	Percent personal liability
More than 85% but not more than 86%	2
More than 86% but not more than 87%	4
More than 87% but not more than 88%	6
More than 88% but not more than 89%	8
More than 89% but not more than 90%	10

8. Section 221.532 is amended by adding at the end thereof the following new paragraph (d):

§ 221.532 Supervision applicable to limited distribution mortgators.

* * * * *

(d) *Additional obligation of mortgagor.* To obtain a mortgage amount greater than 85 percent of value (85 percent of replacement cost, where appropriate), the mortgagor shall, in addition to making any other deposits and assurances required under this part, at or before initial endorsement in insurance of advances cases (initial/final endorsement in insurance on completion cases), either:

(1) Deposit with the mortgagee in a special escrow an amount equal to three percent of the original principal amount of the mortgage. Such amount may be reduced at final endorsement if, as a result of cost certification, there is a reduction in the original principal amount of the mortgage. Such fund shall be available, if necessary, to help cover operating and maintenance expenses of the project before its achievement of sustaining occupancy and a positive cash flow. Upon a finding by the Commissioner that the condition of the project is such that sustaining occupancy and a positive cash flow have been achieved and have been maintained for a period of at least 120 days, one half of the balance in the fund may be released to the mortgagor. Upon a further finding by the Commissioner that sustaining occupancy and positive cash flow continue to be maintained for a period of at least 120 days thereafter, the remaining balance of the fund may be released to the mortgagor. In lieu of a cash deposit the mortgagee may accept an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. In the event a demand under the letter of credit is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance thereunder. The mortgagee may also, for the limited period between initial and final endorsement of the mortgage in insurance of advances cases, accept the personal note of the mortgagor in lieu of a cash deposit or an unconditional, irrevocable letter of credit. The note must be executed by the individuals comprising the mortgagor entity, that is, the principal officers of a corporate mortgagor or the general partners of a partnership mortgagor, which individuals shall be jointly and severally liable under the note. In the event of a default resulting in the mortgagee's claim for insurance benefits during any time when this special escrow is in effect, the balance in the escrow will be treated as a cash item and the mortgagee's insurance beneifts shall be reduced by the amount of such balance in accordance with § 207.259(b)(2)(iii) or § 2107.259(c) of this chapter or;

(2) Accept personal liability, as evidenced by appropriate provision in the mortgage or deed of trust note and the mortgage or deed of trust, based on the total unpaid mortgage indebtedness at the time of default, in the following percentages:

Loan-to-cost	Percent personal liability
More than 85% but not more than 86%	2
More than 86% but not more than 87%	4
More than 87% but not more than 88%	6
More than 88% but not more than 89%	8
More than 89% but not more than 90%	10

PART 231—HOUSING MORTGAGE INSURANCE FOR THE ELDERLY

9. In § 231.3, paragraph (b)(2) is revised to read as follows:

§ 231.3 Maximum mortgage amounts—new construction.

* * * * *

(b) * * *

(2) 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 207.19(g)) of the Commissioner's estimate of the replacement cost of the property or project when the proposed improvements are completed if executed by a Private Mortgagor-Profit. The replacement cost may include land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction and other miscellaneous charges incident to construction and approved by the Commissioner and shall include an allowance for builders and sponsors profit and risk of 10 percent of the foregoing items exclusive of land unless the Commissioner, after certifying such allowance is unreasonable, prescribes a lesser percentage.

* * * * *

10. Section 231.4 is amended by revising paragraphs (a)(2), (b)(2)(ii) and (b)(3)(ii) to read as follows:

§ 231.4 Maximum mortgage amounts—rehabilitation projects.

(a) * * *

(2) *Private Mortgagor—Profit.* For a Private Mortgagor-Profit, 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 207.19(g) of the Commissioner's estimate of the value of the project after the completion of the rehabilitation.

(b) * * *

(2) * * *

(ii) *Profit mortgagor.* If the mortgagor is a profit mortgagor, the Commissioner's estimate of the cost of repair or rehabilitation plus such portion of the outstanding indebtedness as does not exceed 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 207.19(g)) of the Commissioner's estimate of the fair market value of such land and improvements before the repair or rehabilitation.

(3) * * *

(*ii*) *Profit mortgagor.* If the mortgagor is a profit mortgagor:

(*a*) 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 207.19(g)) of the Commissioner's estimate of the cost of the repair or rehabilitation, plus

(*b*) 85 percent (90 percent in the case of a mortgagor meeting the requirements of § 207.19(g)) of (*1*) the actual purchase price of the land and improvements, or (*2*) the Commissioner's estimate of the fair market value of such land and improvements before the repair or rehabilitation, whichever is the lesser.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

11. Section 232.30 is revised to read as follows:

§ 232.30 Maximum mortgage amounts.

The mortgage shall involve a principal obligation not in excess of 85 percent (90 percent where the mortgagor is a private nonprofit corporation or association or a mortgagor meeting the requirements of § 232.61(e)) of the Commissioner's estimate of the value of the property or project, including equipment to be used in its operation, when the proposed improvements are completed and the equipment is installed.

12. Section 232.61 is revised by adding a new paragraph (e) at the end thereof to read as follows:

§ 232.61 Equity requirements.

* * * * *

(e) *Additional obligation of mortgagor.* In addition to the funds referred to in paragraphs (a) and (b) of this section, where the mortgagor is a general or limited distribution mortgagor as described in § 221.510 of this chapter, the mortgagor must, in order to obtain a mortgage amount greater than 85 percent of value or replacement cost, at or before initial endorsement of the mortgage for insurance in insurance of advances cases (initial/final endorsement in insurance on completion cases), either:

(1) Deposit with the mortgagee in a special escrow an amount equal to three percent of the original principal amount of the mortgage. Such amount may be reduced at final endorsement if, as a result of cost certification, there is a reduction in the original principal amount of the mortgage. Such fund shall be available, if necessary, to help cover operating and maintenance expenses of the project before its achievement of sustaining occupancy and a positive cash flow. Upon a finding by the Commissioner that the condition of the project is such that sustaining occupancy and a positive cash flow have been achieved and have been maintained for a period of at least 120 days, one half of the balance in the fund may be released to the mortgagor. Upon a further finding by the Commissioner that sustaining occupancy and positive cash flow continue to be maintained for a period of at least 120 days thereafter, the remaining balance of the fund may be released to the mortgagor. In lieu of a cash deposit the mortgagee may accept an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. In the event a demand under the letter of credit is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance thereunder. The mortgagee may also, for the limited period between initial and final endorsement of the mortgage in insurance of advances cases, accept the personal note of the mortgagor in lieu of a cash deposit or an unconditional, irrevocable letter of credit. The note must be executed by the individuals comprising the mortgagor entity, that is, the principal officers of a corporate mortgagor or the general partners of a partnership mortgagor, which individuals shall be jointly and severally liable under the note. In the event of a default resulting in the mortgagee's claim for insurance benefits during any time when this special escrow is in effect, the balance in the escrow will be treated as a cash item and the mortgagee's insurance benefits shall be reduced by the amount of such balance in accordance with § 207.259(b)(2)(iii) or § 207.259(c) of this chapter or;

(2) Accept personal liability, as evidenced by appropriate provision in the mortgage or deed or trust note and the mortgage or deed of trust, based on the total unpaid mortgage indebtedness at the time of default, in the following percentages:

Loan-to-value	Percent personal liability
More than 85% but not more than 86%	2
More than 86% but not more than 87%	4
More than 87% but not more than 88%	6
More than 88% but not more than 89%	8
More than 89% but not more than 90%	10

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-24857 Filed 9-19-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD1-83-3R]

Enlargement of Special Anchorage Area in Salem Harbor, Salem, MA

AGENCY: Coast Guard, DOT.

ACTION: Cancellation of proposed rulemaking.

SUMMARY: On 1 November 1983, the Coast Guard published a Notice of Proposed Rulemaking regarding the expansion of the existing Special Anchorage Area in Salem Harbor. Salem Harbor is bordered on the western shore by the city of Salem, Massachusetts and on the eastern shore by the town of Marblehead, Massachusetts. The proposed change appeared in Volume 48 of the Federal Register pages 50360 and 50361. Subsequent comments received by this office have prompted the withdrawl of the Salem portion of that rule. The Marblehead portion has been established separately as a Final Rule; 49 FR 24722 dated 15 June 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Bradley N. Balch, (617) 223-1470.

SUPPLEMENTARY INFORMATION:

Drafting Information

The persons responsible for drafting this notice are Lieutenant Commander Bradley N. Balch, Project Officer, U.S. Coast Guard, Marine Safety Office, 447 Commercial Street, Boston, Massachusetts and Lieutenant Commander Robert F. Duncan, Project Attorney, Commander (dl), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts.

Discussion

Salem City Ordinance (SEC 6-10) prohibits lobstering by any method in a Designated Anchorage. If the proposed anchorages were established, it would effectively eliminate lobstering from the majority of Salem Harbor. This would impose an economic burden on local lobstermen and possibly seiners, who presently fish this area, by restricting potential harvesting areas that are now available for that purpose. In addition there may be costs imposed on the residents adjoining the shore by increased traffic flow and parking demand as well as other public services. A total of 17 letters have been received concerning this proposed rule change. Sixteen letters are negative and one

positive. The contents of these letters are as follows:

a. Four (4) letters indicated the increase in moorings would create a service traffic problem and a general increase in conjestion in the local area.

b. Five (5) letters addressed the concerns of commercial fishermen in the Salem Harbor area. The lobstermen would be directly affected, however the Seiner's, who supply inexpensive bait to the lobstermen, would be hindered by a potential increase in moorings.

c. Three (3) letters expressed concern over the increase in commercialism in the Winter Island, Cat Cove area.

d. Four (4) letters addressed all areas of concern mentioned above.

e. One (1) letter in favor of the proposal was received.

f. One (1) petition was received that stated "We, as residents of the City of Salem, would like to go on record as being opposed to the U.S. Coast Guard's proposal to expand the Special Anchorage area of Salem Harbor and Cat Cove." Signed by Ninty Four (94) area individuals.

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

Dated: September 17, 1984.

R.A. Bauman,

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

[FR Doc. 84-24947 Filed 9-19-84; 8:45 am]

BILLING CODE 4810-14-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Parts 200, 204, and 298

Chapter 1 and Chapter 2 of the Education Consolidation and Improvement Act of 1981; Extension of Comment Period

AGENCY: Department of Education.

ACTION: Notice of extended comment period.

SUMMARY: This notice is to inform the public that the comment periods on the Notices of Proposed Rulemaking (NPRMs) for Chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 have been extended 45 days in order to provide the public with additional time to prepare and submit their views. These NPRMs implement changes made to Chapters 1 and 2 by the Education Consolidation and Improvement Act of 1981 Technical Amendments.

The NPRM for Chapter 2 (34 CFR Part 298) was published in the Federal Register on July 10, 1984 at 49 FR 28212. The comment period, scheduled to end August 24, 1984, has been extended to end October 8, 1984.

The NPRMs for Chapter 1 (34 CFR Parts 200 and 204) were published in the Federal Register on August 9, 1984 at 49 FR 31914 and 31918, respectively.

DATES: The comment period, scheduled to end September 24, 1984, has been extended to end November 8, 1984.

FOR FURTHER INFORMATION CONTACT:

Chapter 1: Dr. Bruce Gaarder, (202) 245-9846.

Chapter 2: Mr. Allen King, (202) 245-7965.

(Catalog of Federal Domestic Assistance Nos. 84.010, Educationally Deprived Children—Local Educational Agencies; 84.011, Educationally Deprived Children—Migrants; 84.012, Educationally Deprived Children—State Administration; 84.009, Programs for Education of Handicapped Children in State Operated or Supported Schools; 84.013, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children; 84.151, Chapter 2 of the Education Consolidation and Improvement Act of 1981)

Dated: September 17, 1984.

T.H. Bell,

Secretary of Education.

[FR Doc. 84-24950 Filed 9-19-84; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-2673-4]

National Emission Standards for Hazardous Air Pollutants Proposed Standards for Inorganic Arsenic

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Reopening of Public Comment Period on new information.

SUMMARY: The period for receiving written comments on the proposed national emission standards for inorganic arsenic emissions from low-arsenic throughput primary copper smelters is being reopened. EPA is extending the public comment period for the limited purpose of allowing comment on EPA's analyses of new information concerning arsenic emissions and control costs for low-arsenic throughput primary copper smelters.

DATE: Comments must be postmarked on or before November 5, 1984.

ADDRESS: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), U.S. Environmental Protection Agency, 410 M Street, SW., Washington, D.C. 20460. Specify the following Docket Number: A-80-40 High-Arsenic and Low-Arsenic Copper Smelters.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Chaput, Standards Development Branch, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION: On June 5, 1980, EPA listed inorganic arsenic as a hazardous air pollutant under Section 112 of the Clean Air Act. On July 20, 1983, EPA proposed several rulemaking actions in the Federal Register (48 FR 33112), one of which was a national emission standard for inorganic arsenic emissions from low-arsenic primary copper smelters. The public comment period for the proposed standards, which was extended twice at the request of members of the public, ended on January 31, 1984.

A number of commenters on the proposed standards for low-arsenic throughput primary copper smelters commented that EPA's estimates of arsenic emissions at these smelters were too high and the estimates of control costs were too low. The information submitted by the commenters was analyzed, and, where necessary, EPA requested addition information to substantiate or clarify that provided during the public comment period. EPA subsequently reevaluated the cost and emission estimates for these facilities using the new information as well as the previously available information on low-arsenic primary copper smelters. As a result, significant changes have been made to some estimates of emissions and control costs that EPA cited at proposal. In addition, one commenter also requested that, if the final standard is based on information not presented at proposal, EPA provide an opportunity to comment on the new information before making a final decision. Because of the changes and EPA's desire to ensure that the standards are based on the most complete and accurate information available, EPA is reopening the public comment period until November 5, 1984. Comments must be limited to EPA's additional analyses of costs and emissions; the comment period for all other aspects of the rulemaking ended January 31, 1984. EPA has placed the relevant comment summaries and the additional analyses in the public docket (Item No. IV-B-32 of Docket A-80-40).

Refinement in Emission and Cost Estimates Since Proposal

Several copper companies commented that EPA had overestimated the amount of arsenic in materials smelted at several of their smelters and, hence, overstated emissions from the smelters. Comments of this type were received for ASARCO's El Paso and Hayden smelters, Kennecott's Hayden, McGill, and Garfield smelters, and Phelps Dodge's Morenci and Ajo smelters.

For each of these smelters, EPA reviewed the information on which the proposal emission estimates were based in light of the comments submitted. Where judged appropriate, revisions to the proposal estimates were made. All of the revised estimates of inorganic arsenic emissions are lower than the proposed estimates with the exception of the Kennecott-Hayden estimates, which are unchanged. The revised emission estimates reflect changes in the assumed arsenic content of smelter feed and the estimated smelting furnace arsenic volatilization rate, smelter configuration, or the emission capture efficiency. The revised arsenic balances show reduced emission rates from the smelting furnaces and converters.

ASARCO, Kennecott, and Phelps Dodge also commented that EPA's estimates of control costs were understated and based on faulty assumptions. These companies submitted their estimates of emission control costs for six of their smelters.

In several cases, EPA obtained from the companies additional information on their cost estimates. EPA reviewed the cost information supplied by the companies and analyzed the difference between these estimates and those made by EPA at proposal. Factors contributing to the cost differences included: (1) site-specific factors requiring modification of the converter secondary hood design; (2) installation of new ductwork and fans rather than reuse of existing equipment; (3) different assumptions regarding the control systems needed; and (4) different assumptions for the annualized cost capital recovery factor (i.e., the interest rate and equipment service life). For each smelter, EPA reviewed the reasonableness of the companies' assumptions and reevaluated the control costs. Because of this reanalysis, the control cost estimates for converter operations and matte and slag tapping operations generally were increased over the estimates presented at proposal.

The revised emission and cost estimates are summarized in Table 1 and 2. Tables 1 presents the revised estimates for applying secondary inorganic arsenic emission controls to converter operations and represents an update of Table III-1 of the preamble for the proposed standards (48 FR 33143). Table 2 presents the control cost and emission estimates for matte and slag tapping operations and represents an update of Table III-2 of the proposal preamble (48 FR 33144).

Reopening of The Public Comment Period

As discussed earlier, EPA is reopening the public comment period for the limited purpose of allowing comment on the revised control costs and emission estimates for low-arsenic throughput primary copper smelters. The bases of the estimates presented in Tables 1 and 2 and the supporting information have been placed in the public docket (Item No. IV-B-32 of Docket A-80-40). To allow time for review of this material and for preparing comments, EPA is reopening the public comment period until November 5, 1984.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride, Arsenic.

Dated: September 7, 1984.

John C. Topping, Jr.,

Assistant Administrator for Air and Radiation.

TABLE 1. REVISED ENVIRONMENTAL AND COST IMPACTS ASSOCIATED WITH SECONDARY INORGANIC ARSENIC EMISSION CONTROL SYSTEMS FOR CONVERTER OPERATIONS

Smelter	Arsenic content of feed, percent	Arsenic feed rate to converters, kilogram per hour	Potential secondary arsenic emissions, milligram per year	Baseline secondary arsenic emissions, milligram per year	Predicted secondary arsenic emission reduction, milligram per year	Annualized control costs, $1,000	Cost per unit emission reduction, dollars per milligram arsenic
ASARCO—El Paso *:							
(1)	0.5	98.9	98.3	13.3	3.7	379	102,430
(2)	0.5	98.9	24.6	3.4	1.0	379	379,000
ASARCO—Hayden	0.42	63.4	10.2	5.4	4.4	798	181,365
Kennecott—McGill	0.033	9.3	10.1	10.1	9.2	2,201	239,240
Kennecott—Hayden	0.015	7.2	6.5	6.5	5.9	2,140	362,710
Phelps Dodge—Douglas	0.03	4.2	4.1	4.1	3.7	2,943	795,405
Inspiration—Miami	0.033	5.7	1.9	1.9	1.7	2,943	1,731,000
Phelps Dodge—Morenci	0.006	1.9	1.9	1.9	1.7	3,432	2,019,000
Kennecott—Utah (Garfield)	0.144	14.7	1.5	1.5	1.4	2,028	1,449,000
Phelps Dodge—Hidalgo	0.018	2.2	1.2	1.2	1.1	1,745	1,586,000
Tennessee Chemical—Copperhill	0.0004	0.7	0.65	0.65	0.58	1,278	2,203,000
Magma—San Manuel	0.006	0.6	0.55	0.55	0.50	3,979	7,958,000
Phelps Dodge—Ajo	0.015	0.8	0.52	0.52	0.47	1,562	3,323,000
Kennecott—Hurley	0.0005	0.8	0.46	0.46	0.42	2,296	5,467,000
Copper Range—White Pine	0.008	0.5	0.30	0.30	0.27	1,278	4,733,000
Total							

* El Paso figures represent secondary arsenic emissions based (1) on an emission factor for uncontrolled converter fugitive emissions of 15% of the arsenic contained in the primary converter process gases and, (2) on a 3.75% emission factor. These figures are estimated by EPA to represent the upper and lower bounds of uncontrolled converter fugitive emissions at ASARCO—El Paso.

TABLE 2. REVISED ENVIRONMENTAL AND COST IMPACTS ASSOCIATED WITH SECONDARY INORGANIC ARSENIC EMISSION CONTROL SYSTEM FOR MATTE AND SLAG TAPPING OPERATIONS

Smelter	Arsenic process rate, kilogram per hour	Potential arsenic emission, milligram per year	Baseline arsenic emissions, milligram per year	Predicted arsenic emission reduction, milligram per year	Annualized control costs 1,000	Cost per unit emission reduction, dollars per milligram arsenic
ASARCO—Hayden	93.2	8.5	1.1	0.	0	
ASARCO—El Paso	102.1	6.7	0.8	0.	0	
Kennecott—Utah (Garfield)	40.4	2.0	2.0	1.7	1,914	1,126,000
Kennecott—Hayden	9.4	0.9	0.9	0.78	257	329,490
Inspiration—Miami	19.8	0.8	0.8	0.69	261	378,260
Phelps Dodge—Douglas	10.4	0.6	0.4	0.32	514	1,606,000
Kennecott—McGill	5.6	0.3	0.3	0.26	257	988,460
Phelps Dodge—Morenci	5.0	0.3	0.3	0.26	514	1,977,000
Phelps Dodge—Hidalgo	4.9	0.3	0.3	0.26	257	988,460
Phelps Dodge—Ajo	1.8	0.1	0.1	0.09	257	2,856,000
Kennecott—Hurley	1.6	0.1	0.1	0.09	265	2,944,000
Tennessee Chemical Copperhill	1.1	0.09	0.09	0.08	257	3,213,000
Magma—San Manuel	1.0	0.08	0.08	0.07	514	7,343,000
Copper Range—White Pine	0.6	0.06	0.06	0.05	257	5,140,000

[FR Doc. 84-24749 Filed 9-19-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 65

[Docket No. DCO/IV/8401; A-4-FRL-2675-8]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Memphis-Shelby County Health Department to Bryce Corporation, Memphis, TN

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Memphis-Shelby County Health Department (MSCHD) to Bryce Corporation (Bryce). The Order requires Bryce to bring air emissions from its papercoating lines and flexographic printing presses in Memphis, Tennessee, into compliance with air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP) by December 31, 1985. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before October 22, 1984.

ADDRESSES: Comments should be submitted to Director, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30365. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd Ledbetter, Chief, Northern Compliance Unit, Air Compliance Section, Air Management Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone Number (404) 881-4298.

SUPPLEMENTARY INFORMATION: Bryce Corporation operates four (4) papercoating presses, one (1) rotogravure press and three (3) flexographic printing presses at its plants located at Delp Street and Old Lamar Street in Memphis, Tennessee, for the purpose of producing flexible packaging materials. As this source is unable to comply with the requirements contained in the Tennessee SIP, the Memphis-Shelby County Health Department (MSCHD), Air Programs Branch, had been negotiating with this source on a compliance plan since 1981, without resolution. Subsequently, EPA issued a Notice of Violation for all of the above-listed operations on June 22, 1983, to Bryce Corporation. The coating operating was to have been in compliance in November 1981, and the remaining presses by December 1982. The MSCHD submitted a compliance plan including a compliance schedule in July 1983, and continued to work out the problems until the DCO was finalized in April 1984, and subsequently amended on August 29, 1984.

The Order under consideration addresses VOC emissions from the four (4) coaters (laminators), one (1) rotogravure press and three (3) flexographic printing presses. These emission points are subject to the following: Coating Operations—Rule 1200-3-18-.06 of the Tennessee Air Quality Act (TAQA) and Section 3-22 Memphis City Code (MCC), which limits emissions to 2.9 pounds of VOC per gallon of coating; Rotogravure Press Rule 1200-3-18-.29 TAQA and Section 3-22 MCC, which require a 65% reduction of VOC's; and Flexographic Presses—Rule 1200-3-18-.29 TAQA and Section 3-22 MCC, which require a 60% reduction in VOC's. These regulations limit the emissions of VOC's and are part of the federally approved Tennessee State Implementation Plan. The Order requires final compliance with the above regulations by December 31, 1985, through the implementation of the following schedule for the construction or installation of control equipment or reformulation:

The rotogravure and flexographic printing presses;

Option A—Using 25% or less VOC and 75% or more water-December 31, 1985

Option B—Using 60% Non-Volatile Materials-December 31, 1985

Option C—Add on controls if Option A and B are not developed

(1) Final plans for contol system by

June 1, 1985
(2) Begin construction by August 1, 1985
(3) Final compliance by December 31, 1985

Option D—Alternate emissions limitation–approved by the MSCHD and EPA—December 31, 1985.

The laminators (paper-coaters) achieved compliance by August 1, 1984. This was achieved by averaging all coating used across all coaters on a daily basis. All compliance determinations will be made on a daily basis.

The source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit quarterly reports beginning with August 1984, and continuing through December 1985, indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Bryce Corporation shall immediately notify the MSCHD in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Bryce Corporation shall submit, no later than five (5) days after the deadline for completing each milestone required by the above schedule, certification to the MSCHD whether or not such milestone has been met.

As an interim control measure, VOC's from the rotogravure and flexographic printing presses shall not exceed 2.01 pounds of VOC per ream on a daily basis between January 1985 and December 30, 1985. The laminators were emitting no more than 1.73 pounds of VOC per ream as of August 1, 1984. There are no interim opacity limits.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable state air pollution control regulation(s), it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation(s) covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Tennessee SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which is approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

Authority:—42 U.S.C. 7413, 7601.

Dated: September 5, 1984.

John A. Little,

Acting Regional Administrator Region IV

[FR Doc. 84-24932 Filed 9-19-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50517; FRL-2674-3]

Alkyl Aryl Phosphine; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance which was the subject of premanufacture notice (PMN) P-83-1023 and a TSCA section 5(e) consent order issued by EPA. The Agency is concerned that the substance may present an unreasonable risk to human health if the significant new uses occur.

DATE: Written comments should be submitted by November 19, 1984.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS-50517. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the address given above. For further information regarding the submission of comments containing confidential business information (CBI) see unit XIII of the preamble.

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

SUPPLEMENTARY INFORMATION: OMB control number 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720 published in the Federal Register of May 13, 1983 (48 CFR 21722). In particular, these include the information submission requirements of section 5(b) and (d)(1), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5 (e) and (f). If EPA does not take regulatory action under section 5, 6, or 7 to control activities on which it has received a SNUR notice, section 5(g) requires the Agency to explain in the Federal Register its reasons for not taking action.

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are covered by TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127 and 127.28 published in the Federal Register of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR Part 707 published in the Federal Register of December 13, 1983 (48 FR 55462).

II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR Part 721, Subpart A published in the Federal Register of September 5, 1984 (49 FR 35011). EPA is proposing that these

general provisions apply to this SNUR without change except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposed Rule

The chemical substance subject to this proposed rule is identified generically as alkyl aryl phosphine. It was the subject of PMN P-83-1023. EPA is proposing to designate the following as significant new uses of the substance: (1) Manufacturing, importing, or processing of the substance without establishing and enforcing a program whereby workers who may be exposed to the substance were (a) a National Institute for Occupational Safety and Health (NIOSH) approved air-supplied positive pressure respirator, as set forth in the Occupational Safety and Health Administration standards prescribed in 29 CFR 1910.134 (respirators offering a greater degree of protection, i.e., full hood, may be substituted), and (b) protective clothing and gloves which have been determined to be impervious to the substance, (2) manufacturing or importing amounts of the substance exceeding those allowed to be manufactured or imported by the PMN submitter under the terms of the section 5(e) consent order, and (3) distribution in commerce by any person, including importers, processors, and distributors, without affixing a label to each container of P-83-1023. The label would contain the following statement:

WARNING. Chemical similar in structure have been found to cause neurotoxic effects. Avoid breathing dust and prevent all contact with skin. Wear a NIOSH-approved respirator. Wear impervious gloves and protective clothing. Wash thoroughly after handling and before eating, drinking, or smoking. Use only with adequate ventilation.

The first word on the label would be capitalized, and the type size of the first word would be no smaller that six point type for a label five square inches or less in area, ten point type for a label above five but below ten square inches in area, twelve point type for a label above ten but below fifteen square inches in area, fourteen point type for a label above fifteen but below thirty square inches in area, or eighteen point type for a label over thirty square inches in area. The type size of the remainder of the warning statement would be no smaller than six point type. All required label text would be of sufficient prominence, and would be placed in such conspicuousness relative to other label text and graphic material, to ensure that the warning statement is read and understood by the ordinary individual under customary conditions of purchase and use.

IV. Background

On August 4, 1983, EPA received a PMN which the Agency designated as P-83-1023. EPA announced receipt of the PMN in the Federal Register of August 12, 1983 (48 FR 36647). The notice submitter stated that the substance will be used as an industrial catalyst.

The notice submitter claimed the following as CBI: company name, the specific chemical identity, impurities, byproducts, specific uses, production volume, certain process information, and customer identity. Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comment on whether the maintenance of CBI in this proposed rule has adversely impacted upon the ability of interested parties to provide comment. For purposes of clarity, this substance will be referred to by its generic chemical name and PMN number.

In the PMN, the notice submitter included test data on P-83-1023 which are summarized below:

LD_{50} rat—oral—1 g/kg
LD_{50} rabbit—dermal—2 g/kg
Irritation—rabbit (skin)—Transient
Irritation—rabbit (eye)—Slight
Ames Salmonella (Battery)—Negative (with/without activation)

The notice submitter also provided a report on a study in which dogs were exposed via oral and inhalational routes to an analogue of P-83-1023. EPA is not disclosing the identity of the analogue because to do so might reveal the identity of P-83-1023.

EPA's general literature search provided no additional information on the toxicity of the substance. The Agency did, however, acquire additional data pertaining to the toxicity of the analogue.

EPA believes that P-83-1023 may present a neurotoxic hazard. The substance is expected to be absorbed via all routes to exposure. The analogue has been demonstrated to be neurotoxic based upon data reporting both functional and pathological effects in animals. The subacute neurotoxicity data on the analogue establishes an estimated no observable effect level (NOEL) of 10 mg/m^3. Because the biochemical mechanism of the neurotoxicity of the analogue is unknown, there is no basis for determining what impact the structural differences between P-83-1023 and the analogue may have on the expression of neurotoxicity. For this reason, the Agency is unable to determine the neurotoxic potential of P-83-1023 despite submission by the notice submitter of a subacute neurotoxicity study for the analogue.

During review of the PMN, the Agency concluded that the uncontrolled manufacture, processing, distribution in commerce, and use of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects.

EPA concluded that use of appropriate protective equipment will protect persons exposed to the substance from any unreasonable risk. The Agency negotiated a section 5(e) consent order with the notice submitter which requires certain protective equipment and labeling, and restricts manufacture and distribution in commerce, including production volume, until data are available to more accurately determine the risk associated with P-83-1023. The order also includes certain aquatic release and waste disposal controls which are not a part of this SNUR. A reevaluation of the available data indicates that the imposition of such controls is no longer supported. Accordingly, the Agency will, at the request of the PMN submitter, amend the section 5(e) consent order. The order became effective January 19, 1984.

By issuing a section 5(e) consent order which allows controlled commercial production and distribution of the substance, EPA has taken a regulatory approach which is appreciably less burdensome than an order prohibiting manufacture of the substance until additional data are submitted. At the same time, such an approach protects human health by requiring precautionary controls pending the development of the data needed for a more fully reasoned evaluation of the risks associated with the substance.

Section 5(e) orders apply to the notice submitter. When the notice submitter commences commercial manufacture of the substance and submits a notice of commencement of manufacture or import to EPA, the Agency will add the substance to the TSCA Chemical Substance Inventory. When a substance

is listed on the Inventory, other persons may manufacture or process the substance without controls. Therefore, EPA is proposing to designate those uses described in Unit II of this preamble as significant new uses so that the Agency can review these uses before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance; if necessary, action can then be taken to ensure that persons will not be exposed to levels of P-83-1023 that are potentially hazardous. Since the original PMN submitter is required to perform testing when the cumulative production volume reaches a specified level, it is advisable that potential manufacturers or importers check with the Agency before undertaking any testing in support of a SNUR notice.

V. Determination of Proposed Significant New Uses

To determine what would constitute significant new uses of this substance, EPA considered relevant information about the toxicity of the substance and potential exposures associated with possible uses (such as uses other than those allowed under the section 5(e) order) and including the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential uses might change the magnitude and duration of exposure of humans to P-84-1023. Based on these considerations, EPA proposes to define the significant new uses as set forth in Unit III of this preamble.

EPA has already determined in the section 5(e) order that unrestricted manufacture, processing, distribution in commerce, and use of the substance may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the uses of the substance would be significant.

VI. Alternatives

EPA considered regulatory alternatives to a SNUR to ensure protection of human health.

1. One alternative EPA considered would be to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before manufacturing, importing, or processing the substance. Because the substance is subject to a section 5(e) order, the small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than section 5(e) SNUR authority has drawbacks in this particular instance. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process the substance for those uses defined in Unit III of this preamble, the Agency could not take immediate action under section 5(e), as it can under a SNUR, and therefore would not be able to regulate the substance pending development of information. Rather in a situation such as this, EPA would have to consider regulating the substance under TSCA section 6 which would require a separate rulemaking action. Moreover, in view of the current lack of health effects data on P-84-1023, EPA first would likely have to obtain test data on the substance under section 4 of TSCA to support an action under section 6. This approach could allow unnecessary risks to human health during the time needed for data development. In addition, the original notice submitter would be at a competitive disadvantage because the section 5(e) order applies only to that company. It is not the intent of EPA in the PMN process to create unfair marketplace disruptions.

2. The Agency also has the authority to regulate substances under section 6 of TSCA. However, the Agency may regulate under section 6 only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture "present[s] or will present" an unreasonable risk of injury to health. There is insufficient information to perform a reasoned evaluation of the health effects of P-83-1023 at this time. Therefore, the Agency cannot state with certainty that the substance presents or will present an unreasonable risk. In this instance, because the Agency has issued a section 5(e) order, EPA can state that the substance "may present" an unreasonable risk of injury to health. However, the Agency cannot regulate the substance under section 6 at this time.

3. As an alternative to the proposed significant new use definitions, the Agency is considering defining as a significant new use the failure to establish a program whereby the substance is treated as a hazardous chemical substance under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standards (29 CFR 1900.1200). In all labels, material safety data sheets, and employee training programs, the substance would be required to be identified as a suspect neurotoxicant. In addition, employees who may be exposed to the substances would be required to wear respirators, gloves, and protective clothing specified in this proposed rule.

4. The Agency is also considering creating an abbreviated review for persons who propose to employee alternative exposure controls or worker protection equipment which may provide equivalent protection. Under this approach, the significant new uses would be defined as the failure to establish a program whereby persons who may be exposed to the substance are required to use the respirators, gloves and protective clothing specified in this proposed rule or employ alternative exposure controls and/or protective equipment which provide the "equivalent" protection. Persons would be required to notify EPA of the alternative controls to receive (in a specified time period which is shorter than 90 days) confirmation from the Agency that the protection provided by the equipment is "equivalent." If EPA determined that the protection was not "equivalent," significant new use reporting would be required.

EPA invites comments on this proposal and the alternatives.

VII. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in sections 5 and 8(a) of TSCA, that in addition to the requirements in § 721.17, the following records be maintained for 5 years after the date of their creation, by persons who manufacture, import, or process P-83-1023:

1. The names and addresses of persons required to use protective equipment who have been so informed.
2. Results of respirator fit tests for those persons who have been required to use respirators.
3. Any determination that clothing and gloves are impervious to P-83-1023.
4. Dates of shipment of containers of P-83-1023.
5. Manufacture and import volume records.

As an alternative, the Agency is considering requiring manufacturers and processors of the substance who do not trigger the SNUR reporting requirement to maintain records demonstrating their compliance with the SNUR. Therefore, manufacturers and processors would have the discretion to determine which records are needed to show compliance. To provide guidance, the Agency would provide examples of the types of records which would adequately demonstrate compliance.

Recordkeeping requirements are expected to encourage compliance with this proposed rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting these specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them.

Although section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (b)(2) of § 721.140, EPA finds that such recordkeeping is necessary to implement and enforce effectively the requirements of the SNUR. Two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements in 40 CFR 720.70 and in 721.17 of the general SNUR provisions. Clearly, there is no way to determine whether a manufacturer, importer, or processor is undertaking a significant new use of the type defined in this proposed rule unless the manufacturer, importer, or processor is required to keep records of its activities to show that the significant new use has not occurred. EPA would otherwise be unable to determine whether a violation has occurred, unless the manufacturer, importer, or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers, importers, and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers, importers, and processors, but in this case a section 5(e) order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers, importers, and processors as well and is proposing to do so.

VIII. Exemptions To Reporting Requirements

EPA has codified general exemption provisions covering SNUR reporting under § 721.19. On a case-by-case basis the Agency may modify these provisions in Subpart B. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

EPA issued its final premanufacture notification rules under 40 CFR Part 720 published in the Federal Register of May 13, 1983 (48 FR 21722) including § 720.36 which contained detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. On September 13, 1983 (48 FR 41132), EPA stayed the effectiveness of § 720.36, among other provisions of the PMN rule, pending further rulemaking to revise the provisions. Because § 720.36 was not in effect when EPA codified § 721.19, the Agency relied on the general definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities qualify under this exemption. Upon promulgation of a revised § 720.36, EPA intends to amend § 721.19 to adopt the provisions of the revised § 720.36.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure during manufacture and processing of the substance, EPA lacks the authority under section 12(a) of TSCA to require reporting of such manufacture or processing for a significant new use because EPA does not yet have sufficient information to make the "will present an unreasonable risk" finding necessary to regulate a substance manufactured or processed solely for export. However, persons must notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting. The term "manufacture solely for export" is defined in the PMN rule (40 CFR 720.3(s)). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus, the substance would be exempt from reporting under this SNUR if a person manufactures (the term manufacture includes import) or processes the substance solely for export from the U.S. under the following restrictions: (1) There is no use of the substance in the U.S.; (2) processing is restricted to sites under the control of the manufacturer or processor, respectively; and (3) distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., such manufacture and processing would be for use in the U.S.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a notice of commencement of manufacture, and the substance will be added to the inventory. The notice submitter is prohibited by the section 5(e) order from undertaking any of the activities which the Agency is proposing be designated as significant new uses. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that when the chemical substance subject to this SNUR is added to the Inventory, it may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

If, after publication of this proposal, someone were to undertake the designated significant new uses, they could argue that the uses are no longer "new" at the time the rule is promulgated as final. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new uses before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substance is manufactured or processed between proposal and promulgation for a proposed significant new use, the Agency will consider such use to be a significant new use if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who begin manufacture, import, or processing of the substance for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption, and persons who commence a proposed significant new use do so at their own risk.

Because the identity of P-83-1023 is confidential, any person who proposes to manufacture or import P-83-1023 is unlikely to know that the substance is

on the Inventory and, therefore, is likely to submit a *bona fide* request under either 40 CFR 710.7(e) or 720.85(b) to determine whether the substance is on the Inventory. If EPA determines that the person has a *bona fide* intent to manufacture or import the substance and that the substance the person proposes to manufacture or import is P-83-1023, EPA will inform the person that the substance is subject to this proposal. This will give the person adequate notice of this proposal, will give the person an adequate chance to comment, and will help prevent the potential disruption.

X. Determining When Use Is Subject to This Proposal

EPA has codified procedures at § 721.6 under which any person who intends to manufacture, import, or process a chemical substance within the generic chemical name identified in this proposal would be able to ask EPA whether or not their chemical substance is subject to a SNUR. The process for doing so is very similar to the process required for manufacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g)(2) of the Inventory Reporting Rules and 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules as published in the Federal Register of May 13, 1983 (48 FR 21722). The Agency does not intend to modify these procedures for this proposal.

EPA is proposing significant new use which is confidential. This is the first SNUR EPA has proposed in which it is proposing to keep a specific significant new use concerning production volume confidential in the final rule. For the same reasons that EPA believes it is appropriate to keep the specific chemical identity confidential, EPA believes it is appropriate to keep the production volume limit imposed on the PMN submitter by the section 5(e) order confidential. EPA is proposing that this significant new use would remain confidential in the final rule. EPA specifically requests comments on this issue.

Therefore, EPA is proposing to reveal the specific production volume described in paragraph (a)(2)(ii) of the rule only to a manufacurer or importer who has shown a *bona fide* intent to manufacture or import the substance under the procedure in § 721.6 of the general SNUR provisions. Thus, if the manufacturer or importer is told that the substance in question is on the Inventory and subject to this SNUR, the person will also be told the production volume in paragraph (a)(2)(ii). This will enable the manufacturter or importer to determine whether a SNUR notice will be necessary.

As an alternative to this approach, EPA considered requiring a manufacturer or importer to show not only a *bona fide* intent to manufacture or import the substance, but also to show the specific volume the person intends for the substance. EPA would then tell the manufacturer or importer whether the volume intended would be a significant new use under the SNUR. EPA has not adopted this approach for the proposal because the Agency believes it would involve a greater burden on manufacturers or importers potentially subject to the SNUR and would provide little additional confidentiality protection.

XI. Test Data and Other Information

EPA recognizes that under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risks that may be posed by a significant new use of this substance, a more reasoned evaluation of the risks posed by this substance would require additional data on neurotoxicity. These data might be generated by a subchronic neurotoxicity test in a sensitive species (either cat or dog). These studies may not be the only means of addressing the potential risks.

EPA encourages potential SNUR notice submitters to test the substance for these concerns. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e)

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XII. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for this substance. This evaluation is summarized below.

Subsequent to promulgation of this SNUR, the Agency believes there are three potential outcomes: (1) A manufacturer, importer, or processor could choose to manufacture, import, or process P-83-1023 under the terms of the SNUR and, thereby, avoid submitting a SNUR notice. (2) A manufacturer, importer, or processor could decide to manufacture, import, process or distribute in commerce P-83-1023 for one or more of the defined new uses. The manufacturer, importer, or processor would then be required to file a SNUR notice. (3) A manufacturer, importer, or processor could elect not to manufacture, import, or process the substance because of the restrictions imposed by the SNUR. The costs of the outcomes are summarized below.

Should a company decide to produce P-83-1023 for uses other than those described in Unit III of this preamble, it will not incur the cost of submitting a SNUR notice. The cost to the company will be those costs associated with the cost of protecive equipment, the cost of labeling for those engaged in distribution in commerce, costs associated with recordkeeping, and any indirect cost incurred as a result of the production volume limitation. In relation to protective equipment, the Agency, for the purposes of its analysis, assumed 5 workers would be exposed to P-83-1023 for a period of 30 days each year. Actual exposure data has been claimed as CBI by the submitter. Each worker will be required to wear a NIOSH-approved full-face piece, positive pressure, air-supplied respirator and gloves and protective clothing which have been deemed to be impervious to P-83-1023. The annual cost of outfitting one worker is $648. For 5 workers, the annual cost would be $3,240. Assuming a 10 percent discount rate, and a 10 year economic life for P-83-1023, the present value of protective equipment for 5 workers is $19,909. An American Society for Testing and Materials Impermeability Test could cost $350 per substrate. The present value of providing respirator fit testing over a 10 year period for 5 workers ranges from $2,100 to 2,500. The present value of total cost is $23,869. The present value of the cost of maintaining records has been estimated by EPA at $1,460. Once the SNUR has been promulgated EPA will incur only enforcement costs.

Under the second outcome, a manufacturer, importer, or processor may wish to engage in one of the significant new uses described in Unit III of this preamble. In this case, the

manufacturer, importer, or processor would be required to submit a SNUR notice. The Agency has estimated that the direct cost associated with filing a SNUR notice ranges from $1,375 to $7,950. The submitter may also incur up to a 3.2 percent reduction in profits due to delays in manufacture, import, or processing and the cost of regulatory follow-up if any. In addition to the cost of filing the SNUR notice, a submitter may incur additional costs associated with alternative protective equipment, process or engineering controls, and/or testing. The costs attributable to generating other test data cannot be estimated with the potential exception of the subchronic neurotoxicity test. This test is estimated to cost $90,000 in 1983 dollars. Since the original PMN submitter is required, however, to perform testing when the cumulative production volume reaches a specified level, it is advisable that potential PMN manufacturers, importers, and processors check with the Agency before undertaking any testing.

The third outcome would involve some companies finding the cost of controlling exposure too expensive to justify production or processing. Under this outcome, a company would not incur any direct costs as a result of the SNUR. The company and society could lose benefits that would have been derived from the manufacture or processing of P-83-1023. However, the fact that the original PMN submitter intends to produce and process P-83-1023 with the protective equipment in place indicates that the intended use of P-83-1023 will still return an acceptable profit.

The Agency has not attempted to quantify the benefits of the proposed SNUR. In general, however, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects can occur. The proposal and promulgation of the SNUR provides the benefits of reduced health risks until production or processing of P-83-1023 ceases.

XIII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIV. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publishing the final rule in the Federal Register. The effective date will be calculated from the promulgation date.

XV. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS—50517). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for this substance.
2. The Federal Register notice of receipt of the PMN.
3. A copy of the section 5(e) consent order.
4. The economic analysis of the proposed rule.
5. The toxicity support document for the section 5(e) order.
6. The economic support document for the section 5(e) order.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays in the OTS Public Information Office, Rm. E-107, 401 M St., SW., Washington, D.C.

XVI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore, requires a regulatory impact analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, for the reasons discussed in Unit XII of the preamble, EPA believes that the cost will be low. In addition, because of the nature of the proposed rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation of high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected is not expected to be substantial.

C. Paperwork Reduction Act

Information collection requirements contained in this proposed rule have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2070-0012.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 12, 1984.

Marcia E. Williams,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended by adding § 721.140 to read as follows:

§ 721.140 Alkyl aryl phosphine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance referred to by its PMN number and generic chemical name is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: P-83-1023, alkyl aryl phosphine.

(2) The significant new uses are:

(i) Manufacture, import, or processing the chemical substance without establishing and enforcing a program whereby workers who may be exposed to the substance wear (A) a National Institute of Occupational Safety and Health approved air-supplied positive pressure respirator as set forth in Occupational Safety and Health Administration standards prescribed in 29 CFR 1010.134 (respirators offering a greater degree of protection, i.e. full hood, may be substituted), and (B) protective clothing and gloves which have been determined to be impervious to the substance under the conditions of exposure, including the duration of exposure, either by evaluating the specifications of the equipment supplier or testing the equipment under the conditions of exposure.

(ii) Manufacturing or importing, by any single manufacturer or importer, amounts of the substance greater than those allowed in the consent order for Premanufacture Notice P-83-1023, dated January 19, 1984, issued under section 5(e) of the Act.

(iii) Distribution in commerce by any person, including importers, processors, and distributors, without affixing to each container of the substance, a label which complies with the following:

(A) The label contains the following statement:

WARNING. Chemicals similar in structure have been found to cause neurotoxic effects. Avoid breathing dust and prevent all contact with skin. Wear a NIOSH-approved respirator. Wear impervious gloves and protective clothing. Wash thoroughly after handling and before eating, drinking, or smoking. Use only with adequate ventilation.

(B) The first word on the label is capitalized, and type size of the first word is no smaller than six point type for a label five square inches or less in area, ten point type for a label above five but below ten square inches in area, twelve point type for a label above ten but below fifteen square inches in area, fourteen point type for a label above fifteen but below thirty square inches in area, or eighteen point type for a label over thirty square inches in area. The type size of the remainder of the warning statement is no smaller than six point type.

(C) All required label text is of sufficient prominence, and is placed with such conspicuousness relative to other label text and graphic material, to ensure that the warning statement is read and understood by the ordinary individual under customary conditions of purchase and use.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Identifying Production Volume Limit.* If EPA informs a manufacturer or importer under § 721.6 that a chemical substance is subject to this section, EPA will also inform the manufacturer or importer of the specific production volume limit in paragraph (a)(2)(ii) of this section.

(2) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers, importers, and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain the following records for five years from their creation:

(i) The names of persons who have been required to wear protective equipment and who have been so informed.

(ii) Results of respirator fit tests where appropriate.

(iii) Glove and clothing imperviousness determinations.

(iv) Dates of shipment of containers of the substance.

(v) Production volume records.

(Secs. 5, 8 Pub. L. 94-469, 90 Stat. 2012 (15 U.S.C. 2604))

[FR Doc. 84-24928 Filed 9-19-84; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Threatened Status and Critical Habitat for the Desert Dace (Eremichthys acros)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the proposed determination of threatened status and critical habitat for the desert dace, and that the comment period on the proposal will be reopened. This hearing and reopening of the comment period will allow comments on this proposal from all interested parties.

DATES: The public comment period is reopened September 20, 1984. The public hearing will be held from 7 to 9 p.m. on Wednesday, October 10, 1984, at the Humboldt County Library, Winnemucca, Nevada. The comment period on the proposal, which closed on July 30, 1984, is reopened until October 22, 1984.

ADDRESSES: The Humboldt County Library, 85 East 5th Street, Winnemucca, Nevada 89445. Comments should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnonah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Don Sada, Project Leader, U.S. Fish and Wildlife Service, Great Basin Complex, 4600 Kietzke Lane, Building C, Reno, Nevada 89502.

SUPPLEMENTARY INFORMATION:

Background

The desert dace is endemic to a series of thermal spring habitats in the Soldier Meadows area of Humboldt County, Nevada. This fish is threatened by water diversion, exotic species, and geothermal exploration and development. A proposal of threatened status with critical habitat for the desert dace was published in the Federal Register (49 FR 22355) on May 29, 1984.

The Endangered Species Act requires that a public hearing be held if requested within 45 days of the publication of the proposed rule. On July 12, 1984, a public hearing on this proposal was requested by Mr. James A. Callahan, Attorney at Law, on behalf of Mr. Ken Earp, owner of Soldier Meadows Ranch. The hearing will be held from 7 to 9 p.m., on Wednesday October 10, 1984, at the Humboldt County Library, Winnemucca, Nevada. Those parties wishing to make statements for the record should have available a copy of their statement to be presented to the Service at the start of the hearing. Oral statements may be limited to five or ten minutes, if the number of parties present necessitate some limitation. There are no limits to the length of written comments or those mailed to the Service.

In order to accommodate the hearing, the Service also reopens the public comment period for the proposal. Written comments may now be submitted until October 22, 1984, to the Regional Director, U.S. Fish and Wildlife Service, at the above address.

Author

The primary author of this notice is Carolyn Bohan, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6131).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish marine mammals, Plants, (agriculture).

Dated: September 14, 1984.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-24990 Filed 9-20-84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 184
Thursday, September 20, 1984

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

Packers and Stockyards Administration

Proposed Posting of Stockyards; Arkansas et al.

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AR-161—Cattleman's Commission Co., Batesville, Arkansas

KY-171—Choates Stockyards Upton, Kentucky

MO-260—Diamond Feeder Pig and Hog Auction Diamond, Missouri

WI-139 Equity Livestock Auction Market Lancaster, Wisconsin

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by October 5, 1984.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 12th day of September, 1984.

Jack W. Brinckmeyer,
Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-24906 Filed 9-19-84; 8:45]
BILLING CODE 3410-02-M

Soil Conservation Service

Dunloup Creek Watershed, WV; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service.

ACTION: Notice.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622); the Soil Conservation Service, U.S. Department of Agriculture, gives notice of the intent to deauthorize Federal funding for the Dunloup Creek Watershed project, Fayette and Raleigh Counties, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia, 26505, telephone: 304-291-4151.

SUPPLEMENTARY INFORMATION: A determination has been made by Rollin N. Swank that the proposed works of improvement for the Dunloup Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Rollin N. Swank, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 13, 1984.

Paul S. Dunn,
Acting State Conservationist.

[FR Doc. 84-24935 Filed 9-19-84; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration [A-427-030]

Large Power Transformers From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 1, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from France. The review covers the one known exporter of this merchandise to the United States and consecutive periods from November 1, 1971, through May 31, 1983.

We gave interested parties an opportunity to comment on the preliminary results. At the request of both the petitioner and the respondent, we held a public hearing on April 9, 1984. We also held a conference on April 6, 1984, solely for the presentation of views on the appropriate method of adjustment for differences in the efficiency of transformers. As a result of our review of the comments received, we have changed the margins from those presented in the preliminary results of review.

EFFECTIVE DATE: September 20, 1984.

FOR FURTHER INFORMATION CONTACT: Carol Mitchell or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 7639) the preliminary results of its administrative review of the antidumping finding on large power transformers from France (37 FR 11772, June 14, 1972). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of large power transformers ("transformers"), that is, all types of transformers rated 10,000 KVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination rectifier-transformer units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. Transformers covered by this finding are currently classifiable under items 682.0755, 682.0765, and 682.0775 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of this merchandise to the United States, Alsthom-Atlantique, and consecutive periods from November 1, 1971, through May 31, 1983.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. At the request of the petitioner, Westinghouse Electric Corporation, and the respondent, Alsthom-Atlantique, we held a public hearing on April 9, 1984.

In addition, on April 6, 1984, we held a conference with all interested parties in all of the outstanding transformer cases solely for the presentation of views on the appropriate method for adjustment for differences in the efficiency of transformers.

We received comments in that conference from Westinghouse, Alsthom, Tokyo Shibaura Electric Co., Ltd., Hitachi, Ltd., Industrie Elettriche di Legnano, Fuji Electric Co., Ltd., Ansaldo Componenti, SpA., and General Electric Co.

Comments 1 through 18 pertain to general issues and Comments 19 through 52 pertain to technical issues involving specific sales covered in this review.

Comment 1: Alsthom argues that it qualifies for revocation of the finding and that the Department has illegally denied Alsthom's request for revocation. Specifically, Alsthom argues that the Department cannot consider Alsthom transformers sold to the United States and not yet imported in making the determination on revocation. Westinghouse argues that the Department properly considered Alsthom transformers sold but not yet imported and agrees with the Department's decision not to revoke the finding.

Department's Position: While Alsthom has arguably met the minimum requirements for revocation, we will not consider revocation of the finding until U.S. entry occurs for Alsthom units sold in January 1979. To issue a revocation based upon the absence of U.S. sales, when sales have been made but the merchandise has not yet been shipped, would contradict the Commerce Regulations.

We cannot make the determination required by section 353.54 of the Commerce Regulations, that sales are no longer being made at less than fair value, until we evaluate the transformers sold by Alsthom to the United States in 1979, now in production and scheduled for shipment sometime in the future.

Comment 2: Westinghouse argues that the Department is required to review, for cash deposit purposes, all large power transformer entries, even those the Customs Service might have erroneously liquidated without any calculation of whether any antidumping duties were due. Westinghouse specifically requests that the Department review Alsthom's U.S. sales of 2 transformers in 1969, 4 transformers in 1978, and 3 transformers in 1979. Alsthom argues that the Department has no legal authority to review, for cash deposit purposes, large power transformers that may have been liquidated.

Department's Position: The Customs Service liquidated the entries of the transformers sold in 1969 prior to the date of the finding, and under the then existing law those units were not subject to the finding. As for the transformers sold in 1978 and 1979, section 751 of the Tariff Act of 1930 ("the Tariff Act") requires that we determine the foreign market value and U.S. price of each entry and any amount "by which the foreign market value of each such entry exceeds the United States price of the entry." That determination is then "the basis for assessment of antidumping duties * * * and for deposits of estimated duties." The rate set for deposits of estimated duties is the weighted-average of the assessment amounts for those entries.

Although certain entries may have been subject to assessment under the antidumping finding, Customs liquidated them without reference to the finding. As the liquidation of those entries is final, they are no longer subject to the assessment of antidumping duties. Review of entries not subject to assessment of duties is unnecessary and unreasonable in this case, as there are unliquidated entries that are subject to assessment, and determinations as to these entries provide the appropriate basis for assessment of duties and for deposits of estimated duties.

As the history of this and other antidumping cases involving large power transformers amply reveals, assessment of antidumping duties on transformers is a lengthy and complex process. Review of liquidated entries solely for purposes of setting the case deposit rate would cause undue delay and would likely be a pointless exercise, as we have no reason to believe that the respondent's pricing policies for entries that were liquidated without antidumping review differed from pricing policies for those that remain available for review. The respondent certainly could not have known that the Customs Service would liquidate certain units without reference to the antidumping finding.

In sum, we do not believe that we are required, by statute or regulation, to perform the nugatory act of reviewing entries when duties cannot be assessed, nor to set the deposit rate on the basis of assessments that cannot be made. Our position does not prejudice any of the parties involved because the finding remains in place and each unliquidated entry will be assessed the appropriate amount of antidumping duties.

Comment 3: Alsthom contests the Department's use of the Westinghouse Pricing Rules ("WPR") and any efficiency formula to adjust for physical differences between the transformers being compared, arguing that the Department unnecessarily and unlawfully departs from the procedures prescribed in the statute and the regulations. However, given the delay that would result from a review at this time based on constructed value, Alsthom agrees to the use of the WPR procedure in this review, provided the Department incorporates certain technical adjustments in its calculations.

Westinghouse argues that the Department is statutorily precluded from proceeding with assessment using constructed value methodology because there are home market sales of similar merchandise available for comparison purposes. Moreover, Westinghouse argues that any attempt to construct a value for individually designed and manufactured transformers would result in arbitrary assignment of costs. Given the general consensus of the parties to the large power transformer proceedings that the use of the WPR is a reasonable and accurate method to account for physical differences in merchandise,

Westinghouse argues that the Department must continue to use the WPR. Westinghouse, however, cautions the Department against using the WPR and then also making non-WPR adjustments in its calculations.

Department's Position: We agree with Westinghouse that the home market merchandise chosen by us for comparison is such or similar within the meaning of the Tariff Act. Due to the complexity of transformer design, and the fact that each transformer is custom designed to the specifications of individual customers, the Department has established a reasonable and uniform WPR methodology by which differences in physical characteristics can be quantified.

While use of the WPR does not account for every possible difference in the merchandise, and we make other adjustments when appropriate, parties to the large power transformer proceedings generally agree that this methodology reasonably permits derivation of a foreign market value adjusted for differences in the merchandise.

The Department is acting in accord with the statute and regulations in this proceeding. However, we recognize that the methodology applies here is peculiar to these proceedings and will not necessarily be applied in other proceedings.

Comment 4: Westinghouse and Alsthom both maintain that the Department's step-by-step procedure for comparing large power transformers requires some basic corrections. Westinghouse argues that the Department's current procedure improperly applied the WPR ratio to items not included within that ratio and failed to apply the ratio to items properly included.

Westinghouse recommends the Department's adoption of the following procedure:

1. Develop a theoretical WPR price for the selected home market transformer.
2. Develop a theoretical WPR price for the U.S. transformer.
3. Use theoretical prices developed in steps 1 and 2 to derive a ratio of theoretical WPR prices (US/HM).
4. Adjust the actual sales prices of the selected home market transformer to an ex-factory, packed price.
5. Adjust the actual sales price of the U.S. transformer to an ex-factory, packed price.
6. Adjust the actual ex-factory sales price of the home market transformer to account for differences between the home market unit and the theoretical unit, including:

a. The value of credit extended/advance payments received on the home market sale;

b. Those circumstances of sale increasing or decreasing the price received for the home market unit;

c. Cost-based adjustments for physical characteristics of the home market unit not covered by the WPR;

d. Packing of the home market unit.

7. Adjust for differences in efficiency between the U.S. and home market units.
8. Adjust the price of the home market unit for inflation between home market and U.S. shipment dates.
9. Apply the theoretical ratio derived in step 3 to the home market price derived in step 8.
10. Convert the ratio-adjusted home market price derived in step 9 to U.S. dollars.
11. Adjust the home market price derived in step 10 for differences between the U.S. sale and the adjusted home market transaction, including:

a. The value of credit extended/advance payments received on the U.S. sale;

b. those circumstances of sale increasing or decreasing the price received for the U.S. unit;

c. cost-based adjustments for physical characteristics of the U.S. unit not covered by the WPR;

d. packing of the U.S. unit.

12. Subtract the U.S. price (step 5) from the adjusted home market price (step 11) to arrive at a margin stated in U.S. dollars.
13. Divide the dollar margin obtained in step 12 by the price derived in step 5 to determine the percent margin.

Alsthom argues that the Department failed to apply the ratio to the proper adjusted home market price and that the Department, in its application of the procedure, failed to follow its own logic.

Department's Position: We generally agree that the Westinghouse proposed procedure would result in a more accurate comparison. However, we do not agree that a separate adjustment in steps 6 and 11 for the value of credit extended/advance payments received on the home market sale and U.S. sale is needed because the Department considers adjustments for differences in credit terms to be circumstance of sale adjustments already accounted for in step 6b and 11b. Similarly, we do not agree that a separate adjustment in step 8 is necessary for differences between home market and U.S. shipment dates because the Department will consider an inflation adjustment in step 6c or 11c, as appropriate. For further discussion of the inflation adjustment, *see* Comment 9.

Our adoption of this new step-by-step procedure incorporates Alsthom's recommended approach.

Comment 5: Toshiba argues that, because the Department calculates the adjustment for efficiency on the basis of the home market price before the adjustment for differences in physical characteristics, the derived efficiency adjustment should then be applied to the home market price before, and not after, the adjustment to the home market transformer for differences in physical characteristics.

Department's Position: We agree.

Comment 6: Westinghouse argues that the Department should make an efficiency adjustment in every case where there is a difference in the efficiency ratings of the two transformers being compared because manufacture of a more efficient transformer involves higher costs. Toshiba implicitly agrees that an efficiency adjustment should be made but contends that our consideration of such an adjustment should not influence selection of the most similar home market transformer to be used for comparison purposes except where all other rating factors for two home market transformers are the same. Hitachi and Fuji also agree that an efficiency adjustment should be made.

Alsthom and Ansaldo oppose the possible inclusion of an efficiency adjustment. Alsthom argues that the 1968 WPR makes no allowance for efficiency and, therefore, if the Department uses the 1968 WPR in its analysis, it should only use the 1968 WPR and no adjustment for efficiency should be made. Ansaldo agrees with Alsthom who argues more generally that there can be no valid comparison of the efficiency of two transformers. Legnano and G.E. did not comment on whether an efficiency adjustment should be made in the Department's analysis.

Department's Position: Although the Department uses the 1968 WPR to adjust for differences in the physical characteristics in the compared transformers, such use does not preclude additional adjustments for significant differences not covered by the 1968 WPR. In making an efficiency adjustment we account for differences in the power rating, basic insulation level, and frequency of the compared transformers. We agree with Toshiba that consideration of efficiency differences generally should not affect our selection of the most similar home market transformer used for comparison.

Comment 7: Westinghouse, while recognizing that we could use the 1978

version of the WPR to make efficiency adjustments, recommends that the Department continue to make efficiency adjustments with a modified version of our current formula. Toshiba argues against use of the later WPR to make efficiency adjustments because that methodology is not explained in the WPR and, therefore, is difficult to understand. Hitachi strongly objects to the use of the later WPR in the current administrative review and maintains that, because the company has determined its bid prices using the Department's current efficiency formula, equity prohibits any change at this time. Any revised formula should only be applied in the next administrative review. Fuji argues for continued use of the current efficiency formula with some possible revision. If an efficiency adjustment is made, Ansaldo opposes use of any standard efficiency formula because efficiencies vary considerably depending on the type of transformer, its intended use, and the particular manufacturer. Ansaldo, therefore, submits that efficiency adjustments should be calculated on a case-by-case basis using actual facts and not a standard formula.

Alsthom states that use of the 1968 WPR for some calculations, and the 1978 WPR for others, is unacceptable cross-fertilization that impairs the adequacy of either one. However, if an efficiency adjustment is to be made, Alsthom would prefer the use of the 1978 WPR to a formula developed by the Department. Legnano and G.E. did not comment on whether the 1978 WPR should be used to adjust for efficiency differences.

Department's Position: Because there is a general consensus not to use the 1978 WPR to make this adjustment, the Department will continue to adjust for differences in transformer efficiencies using a modified form of its existing efficiency formula.

Comment 8: The Department received specific comments on the Department's existing efficiency formula and specifically the part of the formula used to adjust the kVA ratings to a common temperature rise, the part used to adjust the kVA ratings to a common system frequency, the part used to adjust no-load losses to a common system frequency, the part used to adjust no-load losses to a common kVA base, the part used to adjust load losses to a common temperature base, the definition of percent no-load losses, the definition of the percent load losses, the definition of the product factor, the ratio of iron no-load losses, the ratio of coil load losses, the cost of core steel and copper in the home market transformer, and the materials cost of the home market transformer.

In addition, the Department requested and received additional comments on the relationship between average temperature and hot-spot temperature rises, the relationship between losses and kVA, the relationships between losses and BIL, and the cost of core and coils.

Department's Position: As a result of our analysis of the comments received, we have revised the efficiency formula as follows:

Efficiency Adjustment

I. Adjustment of kVA to a common winding temperature rise.

55 °C=60 °C kVA/1.06; 65 °C kVA/1.12; 70 °C kVA/1.18; 75 °C kVA/1.24

II. Adjustment of kVA to a common frequency.

60 Hz kVA=1.20×50 Hz kVA

III. Adjustment of no-load loss to a common frequency.

60 Hz N.L.L.=1.3×50 Hz N.L.L.

IV. Adjustment of no-load loss to a common kVA base.

$60\ \text{Hz N.L.L.} @ kVA_{US} = 60\ \text{Hz. N.L.L.} @ kVA_{HM} \times (kVA_{US}/kVA_{HM})^{0.75}$

V(a). Adjustment of no-load loss to a common BIL base when BILs are different and high voltage classes are the same.

$60\ \text{Hz N.L.L.} @ BIL_{US} = 60\ \text{Hz N.L.L.} @ kVA_{US}\ \&\ BIL_{HM} \times (0.7\ BIL_{US}/BIL_{HM} + 0.3)$

V(b). See correction to loss product factor where BILs and high voltage classes are both different, as presented in XII.

VI. Adjustment of load loss to a common temperature base if not given at 75 degrees centigrade.

$75\ °C\ L.L. = (XX\ °C\ I^2R \times T_{75}/T_{XX}) + (XX\ °C\ EL \times T_{XX}/T_{75})$

Where

I^2R=resistance losses

EL=measured eddy losses=load losses − I^2R

I=rated current

R=measured d-c resistance

T=absolute temperature=°C+273

I^2R is assumed to be 80 percent of load loss if I^2R and EL cannot be determined.

VII. Adjustment of load losses to a common frequency.

60 Hz L.L.=(I^2R+1.44 EL)×50 Hz L.L.=1.09×50 Hz L.L. if I^2R and EL cannot be determined.

VIII. Adjustment of load losses to a common kVA base.

$60\ \text{Hz L.L.} @ kVA_{US} = 60\ \text{Hz L.L.} @ kVA_{HM} \times (kVA_{US}/kVA_{HM})^{0.75}$

IX. Calculation of percent no-load loss.

$$\%\ N.L.L. = \frac{\text{N.L. kW @ 55 °C and 60 Hz}}{\text{kVA @ 55 °C and 60 Hz}} = \frac{V(a)}{II}$$

X. Calculation of percent load loss.

$$\%\ L.L. = \frac{\text{L.L. kW @ 55 °C and 60 Hz}}{\text{kVA @ 55 °C and 60 Hz}} = \frac{VIII}{II}$$

XI. Calculation of loss product factor.

P.F.=% N.L.×% L.L.=(IX)×(X)

XII. Adjustment of percent no-load loss and percent load loss if both BILs and high voltage classes are different.

$$(A)\ \%\ N.L._{HM} = \frac{\text{N.L. kW @ 55 °C and 60 Hz}}{\text{KVA @ 55 °C and 60 Hz}} = \frac{IV}{II}$$

$$\text{(B) } \% \text{ L.L.}_{HM2} = \frac{\text{L.L. kW @ 55 °C and 60 Hz}}{\text{KVA @ 55 °C and 60 Hz}} = \frac{\text{VIII}}{\text{II}}$$

(C) Ratio=% $L.L._{HM1}$/% $N.L._{HM1}$=XII(B)/XII(A)
(D) $P.F._{HM1}$=% $N.L._{HM1}$×% $L.L._{HM1}$=XII(A)×XII(B)
(E) $P.F._{HM2}=P.F._{HM1}\times(BIL_{US}/BIL_{HM})^{x}$
Where x
=0.25 for BIL comparisons @ 825 kV and below
=0.50 for BIL comparisons @ 825 kV and above
=0.38 for BIL comparisons between BILs above and below 825 kV
(F) % $N.L._{HM2}=(P.F._{HM2}/\text{Ratio})^{0.5}$
(G) % $L.L._{HM2}$=% $N.L._{HM2}$×Ratio

XIII. Calculation of the ratio of no-load losses.

R_{core}=% $N.L._{US}$/% $N.L._{HM}=IX_{US}/IX_{HM}$ or IX_{US}/XII(F)$_{HM}$

XIV. Calculation of the ratio of load losses.

R_{coil}=% $L.L._{US}$/% $L.L._{HM}=X_{US}/X_{HM}$ or X_{US}/XII(G)$_{HM}$

XV. Calculation of the cost of the core in the HM unit.

Core cost=ex-factory price×(.35)×(.40)

XVI. Calculation of the cost of the coils in the HM unit.

Coil cost=ex-factory price ×(.35)×(.15)

XVII. Calculation of the core and coil cost of the equivalent HM unit.

$$\text{Equivalent core and coil cost} = \frac{\text{(XV)}}{(R_{core})^{0.5}} + \frac{\text{(XVI)}}{R_{coil}}$$

XVIII. Calculation of the adjustment to price for efficiency.

Adjustment (±)=Equiv. C&C cost (XVII)−C&C cost (XV+XVI)

Comment 9: Westinghouse argues that an inflation adjustment must be made in each comparison in this review to ensure that the foreign market value is contemporaneous with the U.S. price. Westinghouse argues that the adjustment must be based on differences in the shipment dates of the transformers compared. Westinghouse suggests that such an adjustment be calculated applying the escalation provisions in Alsthom's home market contracts. Alsthom contends that an inflation adjustment is unnecessary in those comparisons involving home market transformers DO/44 613/1 and H 11500.

Department's Position: Because of the unique nature of the merchandise (i.e., large unit values for individual transformers and the paucity of sales) the Department has expanded its usual period for determining contemporaneous sales. In order to compensate for this expansion, an adjustment for inflation is appropriate. Where there was a time gap between production of the home market and U.S. transformers during which there was a significant escalation in costs for the later unit produced, we have made an inflation adjustment applying the escalation provisions in the pertinent Alsthom home market contract. While we have based our adjustment on differences in contract dates, we have accounted for differences in shipment dates.

Comment 10: Westinghouse argues that the Department cannot be satisfied that it has obtained correct data for all but two of the U.S. transformers until Alsthom explains discrepancies between Westinghouse calculated customs values for these units and contract prices reported for them by Alsthom.

Department's Position: We are satisfied that we have based our calculations on correct data. Westinghouse erroneously assumes that the Customs Service calculates customs duties based upon a "transaction" or "customs value", when, in fact, the entered value of the transformer serves as the proper basis for calculation of such duties. Westinghouse also incorrectly used the Department's March 5, 1984, non-confidential Margin Calculation Report, a document whose figures are ranged within ±10 percent of the actual confidential data, in its calculation of the reported values for these transformers.

Comment 11: Westinghouse argues that Alsthom must not be allowed the benefit of adjustments for physical features not reported prior to verification. Additionally, Westinghouse contends that, without good reason, we should not use packing cost figures provided by Alsthom at verification which are significantly more favorable than those contained in Alsthom's response. Westinghouse submits that Alsthom had numerous opportunities to supply correct information and that allowance of such adjustments would encourage incomplete and inaccurate responses.

Department's Position: Regarding our acceptance in our calculation of unreported physical features, we do stress accurate and complete reporting of information prior to verification. However, Alsthom did report one of the features in dispute in a pre-1983 submission, and then omitted it in a revised 1983 submission. As for the others, where we determine that a respondent in these transformer cases has made a good-faith timely effort to respond to our requests for complex technical data, we will consider making adjustments for physical features not reported prior to verification. In this review we have included the physical features not reported prior to verification.

Regarding the use of packing costs provided at verification, where the verified cost figures differed from reported information, we are satisfied with the explanations given for the discrepancies. Therefore, we have used the verified information in our calculations.

Comment 12: Westinghouse argues that an oil adjustment pursuant to WPR 48–420, Section 1, should be made to the theoretical price, and not to the actual price of the home market unit. If we treat the oil adjustment as a non-WPR adjustment, Westinghouse argues that we must use actual costs and not the WPR.

Department's Position: We agree and have made any oil adjustment to the theoretical price.

Comment 13: Westinghouse argues that, if we make non-WPR adjustments, we must also adjust for differences between IEC and ANSI standards. Specifically, Westinghouse requests adjustments for impedance tolerance, impulse testing, and insulation on four home market transformers with identification numbers H. 11500, H 21890, H 21910, and 44775–1, and for impulse testing, insulation, and short-circuit strength on home market transformer DO/44 613/1.

Department's Position: We have reviewed both the ANSI and IEC standards and have determined that no adjustments are necessary for

differences between those standards for the items specified by Westinghouse.

Comment 14: Westinghouse submits that the Department erred in using an actual cost estimate, rather than extrapolating from the WPR, to make an adjustment for the performance of a zero-sequence impedance test on home market transformers H 21890 and H 21910.

Department's Position: We agree and have changed our calculation accordingly.

Comment 15: Westinghouse argues that the Department erred in not making a 15 percent adjustment to the U.S. mobile transformers for special construction pursuant to WPR 48–420, Section 7, Rule 17. Westinghouse states such an adjustment is appropriate because the mobile transformers contain many expensive special design features, including special fitted tank construction, bushing construction and placement, complex wiring configurations, special cooling and piping, and special load tap changing equipment, placement and gearing. Alsthom argues that, because our technical consultant reviewed relevant documentation and did not make such an adjustment in the preliminary results, such an adjustment should not be made.

Department's Position: We erred in not including a 15 percent adjustment and have changed our calculation on the U.S. mobile transformers.

Comment 16: Westinghouse argues that the Department, in making an actual cost adjustment to the U.S. mobile transformers for the supply of a spare cooler and spare gaskets, erred in basing the adjustment on WPR theoretical values. Westinghouse submits that we should make those adjustments using actual costs. If actual costs are unavailable, Westinghouse suggests that we can use WPR values, but only as an adjustment to the theoretical price.

Department's Position: We agree that we erred in treating WPR theoretical values as if they were actual costs. Using actual costs, we have accounted for those and other spare parts on the U.S. mobile transformers. In our final calculations we have used actual costs to account for any supply of spare parts with transformers being used for comparison.

Comment 17: Westinghouse argues that the cost of a no-load tap changer with external handwheel drives is greater than the cost of a no-load tap changer with terminal boards and links and that the Department should make an adjustment based on actual costs.

Department's Position: For each of the U.S. mobile transformers we have accounted for any difference in cost within the 15 percent special construction adjustment we made pursuant to WPR 48–420, Section 7, Rule 17. Because the customer specified that the tap changers be externally mounted, thus requiring use of external handwheel drives, inclusion of this item within the 15 percent adjustment for special construction is appropriate. For the U.S. transformer H 11280 no adjustment is warranted because the comparable home market transformer H 11500 has similar equipment.

Comment 18: Westinghouse argues that, because the verification report states that Alsthom engineers admitted to the Department that an impluse test and sound level test had been performed on the U.S. mobile transformers, the Department erred in not making an adjustment for performance of these tests, even though no test results appear either on the nameplate or in the test report.

Department's Position: We disagree with Westinghouse's restatement of the facts and with its conclusion. First, although the nameplates contain technical information, they do not indicate whether or not Alsthom performed impluse or sound level tests. Westinghouse's assertion that absence of test information on a nameplate indicates an incomplete record is unsupported.

Second, the verification report does not contain a conclusive statement by an Alsthom engineer that Alsthom performed these tests. The report however, indicates that an Alsthom engineer stated that these tests were probably performed on certain transformers. Because we have no documentary evidence that Alsthom performed these tests, and because we cannot rely on a personal recollection of what may have occurred over ten years ago, we have not made any adjustments for performance of these tests.

Comment 19: Westinghouse questions the veracity of price information submitted on U.S. transformers H 66820–01 and H 66820–02. Alsthom maintains that there is no reason to question the value of these transformers.

Department's Position: We are deferring our review of these two transformers pending further investigation.

Comment 20: Westinghouse argues that the Department did not properly account for the high accuracy class on the bushing current transformers ("BCTs") on U.S. transformers H 66820–01 and H 66820–02. Westinghouse argues that WPR 48–420, Section 8, Rule 2 requires a $9,504 adjustment for the six high voltage BCTs, a $1,977 adjustment for the three low voltage bushings, and a $659 adjustment for the neutral bushing.

Department's Position: Because we are deferring completion of our review of these two units (*see* Comment 19), we need not address this comment at this time.

Comment 21: Westinghouse argues that the Department did not correctly account for the extra creep bushings on U.S. transformers H 66820–01 and H 66820–02, and submits that the Department should extrapolate from the WPR to make the adjustment.

Department's Position: See position in Comment 20.

Comment 22: Westinghouse argues that the Department erred in calculating the adjustment for the impedance limits under WPR 48–420, Section 5, Rule 22 and that a 6 percent, rather than 14 percent, adjustment is warranted onb home market transformer 4475–1.

Department's Position: See position in Comment 20.

Comment 23: Westinghouse argues the Department, using WPR 48–420, Section 9, erred in its calculation of the equipment charge for the load tap changing adjustment on the four U.S. mobile units D765/D815.

Department's Position: We disagree. We calculated the equipment charge using the maximum current and the kilovolt range for both legs of the transformer. We note that, while our mathematical calculation was correct, the document disclosed to and reviewed by Westinghouse contained a typographical error, in that 1.5 should have read 3.

Comment 24: Westinghouse argues that we should make a 14 percent adjustment for impedance limits pursuant to WPR 48–420, Section 7, Rule 11 on U.S. mobile transformers D765/D815.

Department's Position: We disagree and have made no adjustment for impedance limits. The guaranteed impedance of these transformers is 10 percent at 15 MVA on a 75 degrees centigrade base or 16.67 percent at 25 MVA on a 75 degrees centigrade base. Adjusting to a 55 degrees centigrade base, the impedance is 13.44 percent at 25 MVA. For 450 kV BIL/150 kV BIL transformers without load tap changing equipment, the standard impedance range for which no adjustment is required is 11 to 16.5 percent. To determine the range for those transformers with load tap changing equipment, 0.5 percent must be added to each end of the range, for a result of 11.5 to 17 percent. Because the impedance on these mobile transformers is 13.44

percent and, therefore, falls within the range, no adjustment is appropriate.

Comment 25: Westinghouse argues that the Department erred in making no adjustment for the customer-specified special bushings on U.S. transformers D765/D815, and maintains that the Department should make a $1,326 adjustment for the three high voltage bushings, a $1,218 adjustment for the three low voltage bushings, and a $575 adjustment for the neutral bushing.

Department's position: The outline drawing shows that Alsthom supplied 123 kV/400A, 550 kV BIL high voltage bushings, and WPR 48–420, Section 8, Rule 12 does not allow an adjustment for such high voltage bushings. Because ANSI standards require continuous operation at no load at 110 percent voltage, we have applied Rule 12 using the BIL bushing selection so long as the voltage rating did not exceed 110 percent of that listed in the WPR.

We agree with Westinghouse that an adjustment is necessary for the three 36 kV/1600A, 200 kV BIL low voltage bushings supplied by Alsthom. However, we disagree with Westinghouse's application of WPR 48–420, Section 8, Rule 12. Rule 12 requires a 200 BIL bushing to be priced at $516 and a standard bushing at $236. The Correct adjustment is, therefore, for the difference, which is $280 per bushing, or $840 per transformer.

Similarly, applying the rule for calculating the adjustment for a special neutral bushing, a 200 BIL bushing is priced at $516 and a standard 110 BIL neutral bushing at $131. The corrrect adjustment is, therefore, $385 per transformer.

Comment 26: Westinghouse argues that the Department erred in making its adjustment on home market transformer H 21890 for two external low voltage bushing current transformers, using an actual cost based on WPR 48–620. Westinghouse recommends that this adjustment be made in the theoretical price calculation.

Department's Position: We agree and have changed our calculation accordingly. We also made this correction on home market transformer H 21910.

Comment 27: Westinghouse argues that the Department erred in making an 11 percent adjustment for impedance limits on home market transformer H 21890, in that WPR 48–420, Section 7, Rule 11 requires at percent adjustment.

Department's Position: We agree and have changed our calculation accordingly.

Comment 28: Westinghouse argues that no sound level adjustment is required on home market transformer H 21890.

Department's Position: We disagree. The customer specified a sound level of 71 db with a 2 db tolerance. Considering the tolerance, the sound level was below the standard NEMA sound level by 1 db. WPR 48–420, Section 7, Rule 14 requires a 1 percent adjustment.

Comment 29: Westinghouse argues that the Department erred in calculating the adjustment on U.S. transformer D691 for impedance limits under WPR 48–420, Section 7, Rule 11, and submits that a 14 percent, not 18 percent, adjustment is warranted under the rule.

Department's Position: We agree that we misapplied the rule, but we have determined that an 11 percent, not a 14 percent, adjustment is correct. While Westinghouse calculated impedance limits using a tested impedance of 9.17 percent, we have recalculated impedance limits using a guaranteed impedance of 8.7 percent.

Comment 30: Westinghouse argues that the Department erred in making a 2 percent, rather than a 4 percent, adjustment for additional taps on U.S. transformer D690, pursuant to WPR 48–420, Section 7, Rule 2. Westinghouse states that this transformer consists of two sections of high voltage winding, each with 6 taps, for a total of 12 taps. Westinghouse submits that the rule requires 8 of the 12 taps to be multiplied by ½ percent to determine the amount of the adjustment.

Department's Position: We agree that a 4 percent adjustment is appropriate but disagree with Westinghouse's application of the rule. The transformer has 3 multiples, each with 4 taps, not 2 sections, each with 6 taps.

Comment 31: Westinghouse argues that a 14 percent adjustment for the high voltage series multiple connection, and a 6 percent adjustment for the low voltage series multiple connection, are required for U.S. transformer D690, pursuant to WPR 48–420, Section 7, Rule 3.

Department's Position: We agree that a 6 percent adjustment is appropriate for the low voltage series multiple connection, but we have made only a 10 percent adjustment for the high voltage series multiple connection. Because this transformer features three multiples with one voltage required to be available, Note 2 to WPR 48–420, Section 7, Rule 3 does not apply. Therefore, Rule 3 requires only a 10 percent adjustment.

Comment 32: Because the verification report states that the high voltage bushing current transformers had an accuracy class of 10 L 800, and documents for U.S. transformer D690 show 450 kV BIL, and not 350 kV BIL, high voltage bushings, Westinghouse argues that a $3,561 adjustment, not a $594 adjustment, is warranted pursuant to WPR 48–420, Section 8, Rule 2.

Department's Position: While Westinghouse is correct that 450 kV BIL bushings were supplied with that unit, we disagree with Westinghouse's reading of the pertinent documents and its recommended adjustment. The verification report contained a typographical error; the nameplate and outline drawing clearly show that the high voltage bushing current transformers provided were of a standard 10 L 200 accuracy class. The proper adjustment pursuant to WPR 48–420, Section 8, Rule 2 is $1,977.

Comment 33: Westinghouse argues that the 3 low voltage bushing current transformers provided on U.S. transformer D690 were of higher than standard accuracy and that a $1,977 adjustment, not a $594 adjustment, is appropriate under WPR 48–420, Section 8, Rule 2.

Department's Position: We agree and have changed our calculation accordingly.

Comment 34: Westinghouse argues that the Department erred in not making a $1,319 adjustment for the orange paint used on U.S. transformers D690 and D691, pursuant to WPR 48–420, Section 8, Rule 7.

Department's Position: Because the customer specified that orange paint be used on those transformers and orange paint is considered special under WPR 48–420, we agree and have changed our calculations accordingly.

Comment 35: Westinghouse argues that the Department erred in not making a $249 adjustment on U.S. transformer D690, for the three non-standard low voltage bushings, and a $147 adjustment for one non-standard neutral bushing, pursuant to WPR 48–420, Section 8, Rule 12, Table A.

Department's Position: We agree that those adjustments should be included, but we disagree with Westinghouse's application of the rule. The winding current on the neutral bushing is greater than 600 amperes; therefore, we treated the neutral bushing and low voltage bushings as the same and made a $332, not a $396, adjustment.

Comment 36: Westinghouse argues that the Department erred on home market transformer H 21910 in calculating the special impedance adjustment, pursuant to WPR 48–420, Section 7, Rule 11. Under that rule a 2 percent, not a 4 percent, adjustment is warranted.

Department's Position: We agree that a 2 percent adjustment for special impedance is appropriate.

Comment 37: After the Department adjusts home market transformer H 21910 for differences between ANSI and IEC standards, Westinghouse argues the adjustment for load tap changing equipment pursuant to WPR 48–420 would be $34,101.

Department's Position: We disagree because we have not adjusted for differences between ANSI and IEC standards (*see* Comment 13). However, because we agree with Westinghouse that a 2 percent adjustment pursuant to WPR 48–420, Section 7, Rule 11 is appropriate (*See* Comment 36), we have recalculated the load tap changing equipment adjustment to be $34,496.

Comment 38: Alsthom argues that the Department erroneously deducted certain charges for duty and freight twice on U.S. transformer DO/87 569/1.

Department's Position: We agree and have changed our calculation accordingly.

Comment 39: For U.S. transformer DO/87 569/2, with its 9.6 percent impedance, Westinghouse argues that we erred in making a 5 percent adjustment for impedance limits under WPR 48–620, Section 5, Rule 22, Table A.

Department's Position: We agree and have changed our calculation accordingly.

Comment 40: Alsthom argues that an $8,180 adjustment to home market transformer DO/44 613/1 for storage is incorrect because the cited amount reflects an increase in profit due to delayed delivery and is not an expense associated with storage. Westinghouse agrees with the Department that an adjustment is appropriate when a customer requests and pays for storage.

Department's Position: We do not agree that the price paid to Alsthom for storage represents an increase in profit due to delayed delivery. Because the contract explicitly established a $8,180 charge for storage, this is a directly related selling expense for which an adjustment is appropriate.

Comment 41: Westinghouse submits that Alsthom's information on ocean and inland freight charges for U.S. transformers DO/87 569/1 and DO/87 569/2 is either incorrect or incomplete because there is a significant difference in these shipment charges for two essentially identical transformers.

Department's Position: We have confirmed that there was a significant difference in the shipping rates. The two transformers were shipped a year apart. At the same time, we have changed our calculations to reflect shipping charge information that the respondent failed to provide in its response.

Comment 42: Alsthom argues that the Department erred in using a temperature coefficient of 1.18, rather than 1.12, on home market transformer DO/44 613/1, because the higher coefficient does not take into account the reduced differential between the winding hot-spot temperature and the winding average temperature.

Department's position: We disagree. Because the differential can be controlled by design modifications other than by reducing the winding average temperature rise, we have accounted for the differential within the six percent adjustment under WPR 48–620 for each 5 degree centigrade change in average temperature rise.

Comment 43: Alsthom and Westinghouse argue that the Department erred in making an adjustment for the Schnabel tank associated with home market transformer DO/44 613/1 based on the cost of the tank. Alsthom argues that we should have applied WPR 48–620, Section 5, Rule 28, because a Schnable tank is special construction within the meaning of this rule. Westinghouse argues that a Schnabel tank is not special within the meaning of the rule and, further, that no adjustment is necessary because the customer did not explicitly specify Schnabel car shipment. Alternatively, Westinghouse contends that any adjustment must be based upon actual costs.

Department's Position: We determined that the customer specified shipment by road and rail, and that Schnabel tank design was not common for Alsthom and, thus, constituted a special design requiring significant departure from standard construction. Therefore, we agree with Alsthom and have allowed a 15 percent adjustment.

Comment 44: Westinghouse argues that we incorrectly included a 10 percent adjustment for relative impedance on home market transformer DO/44 613/1. Westinghouse asserts that WPR 48–420, Section 5, Rule 23 does not apply to this autotransformer.

Department's Position: We agree and have changed our calculation accordingly.

Comment 45: Westinghouse argues that a sound level adjustment of 1 percent, not 6 percent, is appropriate under WPR 48–620, Section 5, Rule 25 on Home market transformer DO/44 613/1.

Department's Position: We disagree. The customer specification requires an 82 db sound level with all coolers in operation but allows a ±2 db tolerance. The specification also sets an 84 db limit with the transformer vector-loaded at 300 MVA and 105 percent voltage. Because this requirement results in a equivalent sound level limit of 82 db, we have made a 4 percent adjustment under Rule 25.

Comment 46: Westinghouse argues that U.S. transformer H 11500 should be evaluated as having a high voltage winding of 650 kV BIL, unless Alsthom produces design calculations and manufacturer's insulation drawings which demonstrate that the unit was actually designed for a high votage winding of 750 kV BIL. Westinghouse further contends that a 3 percent, not 4 percent, adjustment is warranted for the high voltage connection on the 650 kV BIL transformer under WPR 48–420, Section 7, Rule 7. Alsthom maintains that the customer specifications show that the U.S. unit was designed for 750 kV BIL and that the customer required the testing to be performed at a reduced voltage.

Department's Position: We agree that the customer specifications show that the U.S. unit was designed for a high voltage winding of 750 kV BIL and that the customer required the testing be performed at a reduced voltage. Therefore, we have changed our calculation to reflect evaluation of this unit at 750 kV BIL. We have included a 4 percent adjustment for the high voltage connection pursuant to Rule 7.

Because the unit received an impulse test at a reduced level, WPR 48–420, Section 8, Rule 8 considers such testing to be for quality control and requires a $395 adjustment, rather than a $1,187 adjustment. Because we consider the unit to have been designed for a high voltage winding of 750 kV BIL, we have eliminated the $1,524 adjustment for special bushings under WPR 48–420, Section 8, Rule 12.

Comment 47: Alsthom disputes the figures we used for freight and insurance on U.S. transformer H 11280–01. Alsthom states that the amounts used were estimates and not actual figures. Alsthom argues that the correct total amount is $7,021.03.

Department's Position: We will not use such selective new information submitted by a respondent after publication of our preliminary results. In its response to our questionnaire Alsthom reported freight and insurance charges of $8,470.00. Further, at varification Alsthom furnished documents supporting the reported freight charges, with no mention that the figures were estimates.

Comments 48: Westinghouse argues that the Department erred by not including a 2 percent adjustment on U.S. transformer H 11280–01 for a low

voltage winding of 150 kV BIL, pursuant to WPR 48–420, Section 7, Rule 8.

Department's Position: We agree and have changed our calculation accordingly.

Comment 49: Because Westinghouse believes the Department's current methodology to account for differences in efficiency between U.S. and home market units does not fully account for loss differentials, Westinghouse disagrees with our selection of home market transformer H 11500 for comparison purposes.

Department's Position: In its correspondence Westinghouse stressed the importance of comparing transformers with similar efficiencies, but stated that this particular home market transformer would be acceptable for comparison. We maintain that, in this instance, the home market transformer we selected for comparison purposes is appropriate.

Comment 50: Westinghouse argues that we should not adjust home market transformer H 11500 for the limit on transfer voltage because Alsthom did not report this ground shield feature prior to varification. If we persist and make such an adjustment, Westinghouse argues that it should be based on actual cost or, only if that is unavailable, it should be based on WPR 48–420, Section 7, Rules 11 and 12 pertaining to special impedence. Applying these rules as a last resort, Westinghouse submits that an 11 percent adjustment would be appropriate. Westinghouse contends that the Department erred in using the WPR rules to estimate an actual cost adjustment of 14 percent.

Consistent with its general argument that the Department ought to strictly apply the WPR and make no adjustments outside the WPR, Alsthom submits that a 15 percent adjustment based on WPR 48–420, Section 7, Rule 17 might be more appropriate than the 14 percent that we used as an actual expense.

Department's Position: We consider an adjustment for the ground shield to be appropriate even though Alsthom did not report its existance prior to varification (*see* Comment 11).

Considering Westinghouse's comments, we have made an 8 percent adjustment based on WPR 48–420, Section 7, Rules 11 and 12. We estimated that the gap between the windings for a 750 kV BIL transformer needs to be increased by 32 percent in order to achieve the required 46 kV limit on transfer voltage between the high and low voltage windings. According to WPR 48–420, Section 7, Rule 11, the impedance range for this transformer is 8.1 to 12.15 percent. Accounting for the gap, the adjusted impedance range is 10.69 to 16.04. Given that the equivalent impedance of this transformer on a 55 degree centigrade base is 8.585, the ratio of adjusted impedance is 8.585 to 10.69, or 80 percent. WPR 48–420, Section 7, Rule 12, Table B, requires an 8 percent adjustment for impedance 80 to 84 percent below minimum standard. Therefore, we consider an 8 percent adjustment, rather than either an 11 percent or a 15 percent adjustment, to be appropriate.

Comment 51: Westinghouse argues that the Department cannot justify its use of a 7.8 percent adjustment for escalation on home market transformer H 11500 because the figure is an unverified estimate. Westinghouse argues that a 13 percent adjustment more closely approximates Alsthom's actual cost experience than the 7.8 percent adjustment used.

Department's Position: A 7.8 percent adjustment is appropriate. This figure is based on application of the escalation formula in the sales contract and relevant cost indices.

Comment 52: Alsthom submits that adjustment for a special warranty on home market transformer H 11500 is appropriate, under WPR 48–420, Section 10, Rule 1.

Department's Position: We disagree. Because there was no discernible difference in warranty expenses associated with the U.S. and home market transformers, we do not consider an adjustment to be appropriate.

After publication of the preliminary results, we discovered several mathematical, clerical, and substantive errors.

On U.S. transformer H 11280–01 we included an $1,322 adjustment in the theoretical price for a 7-day recording oil thermometer. Because we considered the cost estimate provided by Alsthom for this item to be unreasonably low, we extrapolated from the WPR to make this adjustment.

On U.S. transformer DO/87 569/2 we have recognized that the contract price included the supply of oil and have changed our calculation accordingly.

On home market transformer H 11500 we erred in using $653, rather than $751, for the adjustment for oil, and have changed our calculation accordingly.

In certain preliminary calculations we used incorrect currency exchange rates and we have adjusted our calculations accordingly.

For home market transformer 44775–1 we have determined that the sound level was 1 db below the NEMA standard, after considering that the customer allowed for a 2 db tolerance. Pursuant to WPR 48–620, Section 5, Rule 25, we have changed our adjustment for sound level on this unit from 3 percent to 1 percent.

Final Results of the Review

As a result of adjustments based on the comments received and certain mathematical, clerical and substantive errors, we have changed our calculations and we determine that the following margins exist for Alsthom:

Period	Margin (percent)
Nov. 1, 1971 to Oct. 22, 1972	72.05
Oct. 24, 1972 to Aug. 28, 1974	54.24
Aug. 29, 1974 to May 31, 1983	1.82

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required on shipments of French large power transformers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is beginning immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 14, 1984.

[FR Doc. 84–24896 Filed 9–19–84; 8:45 am]

BILLING CODE 3510–DS–M

[A-583-081]

Polyvinyl Chloride Sheet and Film From Taiwan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on polyvinyl chloride sheet and film from Taiwan. The review covers the 28 known manufacturers and/or exporters and one known third-country reseller of this merchandise to the United States currently covered by the finding and the period June 1, 1982, through May 31, 1983. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during the period. Where company-supplied information was inadequate or no information was received in response to our questionnaire, we used the best information available for assessment and estimated antidumping duties cash deposit purposes.

The Department has tentatively determined to revoke the finding with respect to Fashion Plastics Fabrication Co. Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: September 20, 1984.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-5255/1130.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 7640-1) the final results of its last administrative review of the antidumping finding on polyvinyl chloride sheet and film from Taiwan (43 FR 28457, June 30, 1978) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of unsupported, flexible, calendered polyvinyl chloride ("PVC") sheet, film and strips, over 6 inches in width and over 18 inches in length, and at least 0.0002 inch but not over 0.020 inch in thickness, currently classifiable under items 771.4312 and 774.5595 of the Tariff Schedules of the United States Annotated.

The review covers the 28 known manufacturers and/or exporters and one known third-country reseller of Taiwanese PVC sheet and film to the United States currently covered by the finding and the period June 1, 1982, through May 31, 1983.

Ten Firms did not ship Taiwanese PVC sheet and film to the United States during the period. The estimated antidumping duties cash deposit rate for those firms will be the most recent rate for each firm. Sixteen firms failed to respond to our questionnaire or provided inadequate responses to our questionnaire. For those non-responsive firms we used the best information available to determine the assessment and estimated antidumping duties cash deposit rates. The best information available is the highest rate for responding firms with shipments.

The Department will not cover the following two firms in this review or future section 751 reviews because those firms do not export to the United States merchandise covered by the finding.

C.Y.&C. Manufacturing Corp.
Mike Hung Products Co., Ltd.

This is not a proposal to revoke the finding with respect to these two firms. Should these firms begin exporting the covered merchandise to the U.S., we shall treat them as new exporters.

We are denying a request for revocation by Taur Yang Enterprises Co., Ltd. because that firm failed to respond to our questionnaire.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the ex-factory, f.o.b. or c.i.f. packed price either to an unrelated purchaser in the United States or to an unrelated Taiwanese trading company for export to the United States, as appropriate. Where applicable, deductions were made for ocean freight, insurance, foreign inland freight, and export license fees. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used either home market price when there were sufficient quantities of such or similar merchandise sold in the home market to provide a basis for comparison, or prices to third countries, when there were insufficient quantities of such or similar merchanside sold in the home market to provide a basis for comparison, both as defined in section 773 of the Tariff Act.

Third-country or home market price was based on the f.o.b. delivered price to unrelated purchasers with adjustments, where applicable, for inland freight, insurance, ocean freght, brokerage fees and differences in packing. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination To Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period June 1, 1982, through May 31, 1983:

	Margin (percent)
Manufacturer/exporter:	
Asiam International Inc.	[1] 11.37
Berlin International Taiwan Corp.	12.04
Brave Dragon Industry Ltd.	12.04
Collins Co., Ltd.	[1] 5.9
Diamond Shamrock Trading Corp.	[1] 0
Essex Sporting Goods	12.04
Fashion Plastics Fabrication Co.	[1] 5.9
Kangel Enterprises, Inc.	[1] 11.37
Long Joy Enterprises Co., Ltd.	12.04
Long-Prosper Enterprises Co., Ltd.	12.04
Nan Lung Plastics Co., Ltd.	12.04
Odin Industries Co., Ltd.	[1] 11.37
Pleasure Time Products Inc.	12.04
Progress Plastics Co., Ltd.	0
Rosy Plastic Co., Ltd.	0
San Chang Plastics	12.04
Sequence Co., Ltd.	[1] 0
Taur Yang Enterprises Co., Ltd.	12.04
The Orchard Corp. of Taiwan, Ltd.	12.04
Orchard-Highest International Development Corp.	12.04
Orchard/Digest International Development Corp.	12.04
Truly Enterprises Co., Ltd.	12.04
Union Industries Limited	[1] 11.37
Wan Chang Lung Trading Co., Ltd.	12.04
Winport Marketing Ltd.	[1] 0
Yeal Fung Enterprises Co., Ltd.	12.04
Yung Chich Enterprises Co., Ltd.	[1] 0
Yunlion Enterprises Co., Ltd.	12.04
Third-country reseller/country: Hop Kee Hong/Hong Kong	12.04

[1] No shipments during the period.

Fashion Plastics Fabrication Co. has applied for revocation and, as provided for in § 353.54(e) of the Commerce Regulations, Fashion Plastics has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding under circumstances as specified

in the written agreement. Fashion Plastics has not shipped this merchandise to the United States for a period of over four years.

Therefore, we tentatively determine to revoke in part the finding on PVC sheet and film from Taiwan with respect to Fashion Plastics Fabrication Co. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise exported by this firm entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for those firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after May 31, 1983, and who is unrelated to any reviewed firm, a cash deposit of 12.04 percent shall be required. These deposit requirements are effective for all shipments of Taiwanese PVC sheet and film entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and § 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 12, 1984.

[FR Doc. 84-24897 Filed 9-19-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of laboratory accreditation actions for August 1984.

The laboratories named below have been newly accredited under the National Voluntary Laboratory Accredition Program (NVLAP). Also listed are the NVLAP Codes for the test methods for which the laboratories have been accredited. The test method designations and titles of these test methods are set out in a Federal Register notice dated January 20, 1984 (49 FR 2496-2498).

Commercial Products LAP

D/L Laboratories, 116 East 16th Street, New York, NY 10003
Saul Spindel—Phone: 212-777-4410

Paints and Related Coatings and Materials

Measurements of Intrinsic Physical Properties

09/A01-09/A02
09/A04-09/A05
09/A07-09/A08
09/A10-09/A18
09/A20-09/A22
09/A25-09/A26
09/A28

Measurements of Performance and Performance Change

09/B01-09/B20
09/B23-09/B27
09/B29-09/B35
09/B37-09/B42

Measurement of Chemical Properties and Compositions

09/C09
09/C12
09/C26-09/C30
09/C37
09/C39-09/C40

Test Sample Conditioning and Preparation

09/D01-09/D06
09/D10-09/D11
09/D13-09/D14
09/D16

Chemray Coatings Corp., 150 Lincoln Blvd., Middlesex, NJ 08846
Frederick W. Armstrong, Jr.—Phone: 201-469-1110

Paints and Related Coatings and Materials

Measurements of Intrinsic Physical Properties

09/A02-09/A05
09/A07-09/A14
09/A17-09/A22
09/A25-09/A28

Measurements of Performance and Performance Change

09/B02-09/B03
09/B05
09/B09-09/B11
09/B13-09/B18
09/B20
09/B23-09/B26
09/B29-09/B31
09/B34
09/B38
09/B41-09/B42

Measurement of Chemical Properties and Compositions

09/C01-09/C02
09/C04
09/C06-09/C15
09/C17
09/C19
09/C21-09/C22
09/C26
09/C28-09/C34
09/C39

Test Sample Conditioning and Preparation

09/D01-09/D04
09/D08-09/D09
09/D11
09/D13-09/D14
09/D16

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, ADMIN A531, National Bureau of Standards, Gaithersburg, MD 20899; (301) 921-3431.

Dated: September 17, 1984.

Ernest Ambler,

National Bureau of Standards.

[FR Doc. 84-24926 Filed 9-19-84; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Membership of National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Membership of NOAA Performance Review Boards; correction.

SUMMARY: This document corrects a notice of membership of National Oceanic and Atmospheric Administration Performance Review Boards that appeared beginning at page 32781 in the Federal Register of Thursday, August 16, 1984 (84-21762). Make the following corrections on page 32782, Group B, Leo Palensky, title should read Director, National Capital Administrative Support Center; Mirco P. Snidero, title should read Director, Regional Administrative Support Center Operations Office.

FOR FURTHER INFORMATION CONTACT: Robert P. Gajdys, Personnel Officer, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443-8781.

Dated: September 14, 1984.

Thomas E. Sides,

Acting Director, Office of Administrative and Technical Services.

[FR Doc. 84-24889 Filed 9-19-84; 8:45 am]

BILLING CODE 3510-08-M

Issuance of Permit; Southwest Fisheries Center

On July 26, 1984, Notice was published in the Federal Register (49 FR 30088) that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, for a permit to take Hawaiian monk seals (*Monachus schauinslandi*) for scientific research and to enhance the propagation and survival of the species.

Notice is hereby given that on September 12, 1984, and as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to the Southwest Fisheries Center, subject to certain conditions set forth therein.

As required by the Endangered Species Act of 1973, issuance of this permit is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973.

The Permit and documentation relating to the Permit are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 12, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-24982 Filed 9-19-84; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Zeedierenpark Harderwijk B.V.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as autorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Zeedierenpark Harderwijk B. V. (P237B).

b. Address: Strandboulevard 8341AB, Postbus 9114 Harderwijk, Holland.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphin (Tursiops truncatus)—6.

4. Type of Take: Captive Maintenance.

5. Location of Activity: Mississippi Sound.

6. Period of Activity: 4 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdication of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and régulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Head of the Division of Area Protection and Species Conservation of the Dutch Government have been found appropriate and sufficent to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: September 17, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-24983 Filed 9-19-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

September 14, 1984.

The Department of Defense Computer Security Center has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New (One-Time)

DoD Automated Information Systems Security Survey

Survey information required to assess security posture of approximately 2,500 contractor sites' automated information systems (AIS) processing classified defense information. Assessment will be used to recommend changes in policy/organization/programmatic aspects of AIS to ensure security measures keep pace with anticipated AIS expansion in late 1980's and beyond.

DoD Contractors: 2,500 responses; 1,650 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, Room 1C535, The Pentagon, Washington, D.C. 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from A.F. Williams, OPI, Room 2A340, Pentagon, Washington, D.C. 20301, telephone (202) 697-1481.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-24899 Filed 9-19-84; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

September 14, 1984.

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Defense Financial And Investment Review Data Collection Package

The Defense Financial And Investment Review (DFAIR) is chartered to conduct a study of contract pricing, financing, and profit policy. To help in assessing these policies, DFAIR is requesting selected major defense firms to provide financial data about their defense subsidiaries.

Major Defense Contractors

Responses Requested: Approximately 120

Burden Hours: 89,100

ADDRESS: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, Room 1C535, The Pentagon, Washington, DC 20301-1155, telephone (202) 694-0187.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. J. M. Sousa, DFAIR, Room 105, 1735 N. Lynn St., Plaza West Building, Arlington, VA 22209-2005, telephone (703) 695-5828.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-24900 Filed 9-19-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Medical Research and Development Advisory Committee; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix, sections 1-15), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Viral & Rickettsial Diseases.

Date of Meeting: October 15 & 16, 1984.

Time and Place: 0830 hours, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda

This meeting will be open to the public from 0830-0945 hours on October 15, for the administrative review and discussion of the scientific research program of the Viral & Rickettsial Diseases Group, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), US Code, Title 5 and Sections 1-15 of Appendix, the meeting will be closed to the public from 1000-1630 hours on October 15, and from 0900-1200 hours on October 16, for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576-2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Philip Z. Sobocinski,

Colonel, MSC Assistant Deputy Commander.

[FR Doc. 84-24891 Filed 9-19-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Thursday & Friday, 11 & 12 October 1984.

Times of Meeting: 0830-1700 hours, both days (Closed).

Place: 11 October 1984: Ft. Detrick & Ft. Meade, Md., 12 October 1984: Langley, VA & the Pentagon.

Agenda: The Army Science Board Ad Hoc Subgroup on Chemical/Biological Warfare Intelligence will meet for classified briefings and discussions, and tour the facilities. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer Army Science Board.

[FR Doc. 84-24963 Filed 9-19-84; 8:45 am]

BILLING CODE 3710-08-M

Defense Contract Audit Agency

Membership of the Defense Contract Audit Agency (DCAA), Performance Review Board

AGENCY: Defense Contract Audit Agency, Department of Defense.

ACTION: Notice of membership of the Defense Contract Audit Agency Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Defense Contract Audit Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Contract Audit Agency.

EFFECTIVE: September 20, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Roger D. Kriesch, Personnel Management Specialist, Office of the Director of Personnel, Defense Contract Audit Agency, Department of Defense, Cameron Station, Alexandria, VA (202) 274-5798 or 274-5799.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been reappointed to serve as members of the Performance Review Board. They will serve a one-year term, effective upon publication of this notice.

Mr. Robert G. Bordley, Chief, Accounting and Finance Division, Office of the Comptroller, Defense Logistics Agency

Mr. John J. Quill, General Counsel, Defense Legal Service

Mr. Raymond E. Schmidt, Director, Audit Policy, Office of the Assistant Secretary (Comptroller), Office of the Secretary of Defense

Edward J. Migliore,

Acting Assistant Director, Resources.

[FR Doc. 84-24894 Filed 9-19-84; 8:45 am]

BILLING CODE 3620-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Department of the Army (DA) Permit for a Proposed Resort Hotel Affecting the Waters of the United States, in Waiulua Bay, Waikoloa, South Kohala, Island of Hawaii, State of Hawaii

AGENCY: Army Corps of Engineers, Honolulu District, Pacific Ocean Division, Fort Shafter, Hawaii, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. Description of the Proposed Action

The applicant, Transcontinental Development Co., proposes a 1,250-room resort hotel and associated amenities on approximately 60 acres of land adjacent to Waiulua Bay. The hotel is intended to draw additional visitors to the South Kohala District of the Island of Hawaii. It would accomplish this by providing a complex with sufficient size, unique features, recreational amenities, and marketability to be economically competitive in the world tourism market.

The project will involve the excavation of a 4-acre salt water recreational lagoon and will require the filling of anchialine ponds on the site. These activities require a DA permit under Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (U.S.C. 1344).

2. Description of Reasonable Alternatives

Because the project is in its preliminary planning stages, details on reasonable alternatives have not been finalized. The applicant is in the process of determining various alternatives, which may include:

a. No action alternative.

b. An alternate site for the resort hotel.

c. Alternate layout of structures or a reduction in scope of the development to minimize impacts on the anchialine ponds and Waiulua Bay.

d. Alternate uses of the aquatic sites.

3. Description of the Scoping Process for the DEIS

a. The public and affected Federal, State and local agencies, and other interested private organizations and parties are invited to provide comments identifying specific concerns which should be addressed in the DEIS. Upon preparation of the DEIS, a public notice shall be issued summarizing the facts of the case and announcing the availability of the DEIS. If a public hearing is requested, it will be held after completion of the DEIS. A public notice announcing the time, date, location and nature of the hearing would be issued at least 30 days prior to the hearing date.

b. The DEIS to be prepared should also satisfy the State of Hawaii's requirement for an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statutes, and the State Environmental Quality Commission's *Environmental Impact Statement Regulations.*

c. The significant issues to be analyzed in the DEIS will include:

(1) Impacts of the project on the coastal zone.

(2) Impacts of project location in the tsunami hazard zone.

(3) Project impacts on flora and fauna and rare or endangered species.

(4) Impacts on surface water runoff and drainage on coastal water quality.

(5) Coastal water quality and oceanographic impacts.

(6) Air quality and noise impacts.

(7) Direct and cumulative impacts on anchialine ponds at the project site and along the coastline.

(8) Aesthetic considerations.

(9) Socio-economic impacts, including impacts on public facilities such as transportation and utilities.

(10) Impacts on historic, archaeological and paleontological resources.

(11) Impacts on land-use.

(12) Recreational impacts.

4. It is estimated that the DEIS will be made available to the public in late 1984 or early 1985.

ADDRESS: Questions about the proposed action and DEIS can be answered by:

Mr. Stanley T. Arakaki, Chief, Operations Branch, U.S. Army Corps of Engineers, Room 205, Building 230, Fort Shafter, Hawaii 96858-5440, Telephone (808) 438-9258.

Dated: September 11, 1984.

Michael M. Jenks,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 84-24956 Filed 9-19-84; 8:45 am]

BILLING CODE 3710-NN-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Hydropower Project on Pine Creek Lake, McCurtain and Pushmataha Counties, Oklahoma

AGENCY: Army Corps of Engineers, DOD, Tulsa District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Proposed Action: The proposed action is to install hydropower facilities at the Pine Creek project. This includes raising the crest of the uncontrolled spillway to maintain the existing flood control capability. In addition, a reregulation dam downstream is being considered to facilitate withdrawal of hydropower releases to meet existing water supply requirements. Pine Creek lake was completed for full flood control regulation in June 1969.

2. Reasonable Alternatives: The alternatives that will be evaluated include one no action alternative and three action alternatives. The no action alternative (without condition) would continue the operation of the project as currently authorized with the top of the summer conservation pool at elevation 438.0 feet National Geodetic Vertical Datum (NGVD) and the top of the flood control pool at 480.0 feet NGVD. Ultimate development includes a conservation pool elevation of 443.5 feet NGVD. The three action alternatives consist of (1) raising the top of the power pool to elevation 448.0 feet NGVD and installing a 10 megawatt (MW) hydropower unit, (2) raising the top of the power pool to elevation 454.0 feet NGVD and installing a 20 MW hydropower unit, and (3) raising the top of the power pool to elevation 460.0 feet NGVD and installing a 20 MW hydropower unit. Currently, alternative 2 is being favored because it appears to be the National Economic Development Plan. The alternative with power pool elevation 448.0 feet NGVD and a 10 MW hydropower unit would cause fewer environmental impacts. None of the alternatives would require land acquisition. The top of the flood control pool and the new spillway crest, would be 481.2, 482.9, 484.9 feet NGVD respectively.

3. Scoping Process: a. Public Involvement. A comprehensive public involvement program was developed as a means of disseminating information and soliciting public views. A variety of techniques including one formal public meeting, meetings with local interest groups, and meetings with local news media were employed to involve Federal, State, and local agencies, citizen committees, organizations, and the public in the planning studies.

b. Significant Issues Requiring In-Depths Analysis. None.

c. Assignments. The US Fish and Wildlife Service will provide formal consultation as outlined in the Fish and Wildlife Coordination Act and section 7 of the Endangered Species Act. The US Soil Conservation Service will report on prime and unique farmlands, Pub. L. 97-98.

d. Environmental Review and Consultation Requirements. The draft environmental impact statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. A scoping meeting will not be held.

5. Estimated date when the DEIS will be available to the public: January 1985.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Buell O. Atkins, Chief, Environmental Resources Branch, US Army Corps of Engineers, Tulsa District, PO Box 61, Tulsa, OK 74121-0061, (918) 581-7857—FTS 745-7857.

Dated: September 12, 1984.

N.J. Arens,

Lieutenant Colonel, CE, Deputy District Engineer.

[FR Doc. 84-24957 Filed 9-19-84; 8:45 am]

BILLING CODE 3710-39-M

DEPARTMENT OF EDUCATION

Talent Search and Educational Opportunity Centers Programs; Application Preparation Workshops

AGENCY: Department of Education.

ACTION: Notice of Dates and Locations for Application Preparation Workshops.

SUMMARY: The Assistant Secretary for Postsecondary Education will conduct Application Preparation Workshops to assist prospective applicants to develop applications for grants under the Talent Search and Educational Opportunity Centers Programs.

DATES: Workshops are scheduled to be held on October 3, 4, 17, and 19.

ADDRESSES: The locations for the workshops are as follows:

October 3 and 4

Washington, D.C.
Hyatt Regency Capitol Hill, New Jersey Avenue, NW.
Host Person: Mr. Walter Lewis, Chief, Education Outreach Branch (202) 245-2165

October 17:

Atlanta, Georgia
Atlanta University, Robert W. Woodruff Library Exhibition Hall, Upper Level 111 Chestnut Street, S.W. (Corner of Chestnut and Bechwith Streets)
Host Person:
Mr. Marvin King, Morris Brown College, (404) 525-7831 ext. 250 or 252

October 17

Dallas, Texas
Bishop College, Recital Hall, Price-Branch Classroom Building, 3837 Simpson Stuart Road, Dallas, Texas
Host Person: Dr. Burtis Robinson, Director, Upward Bound Project, (214) 372-8766 or 8796

October 19

Chicago, Illinois
Roosevelt University, Room 320, 430 S. Michigan Avenue
Host Person: Dr. Clifton Washington, Director, Learning Resource Center, (312) 341-3877

October 19

San Francisco, California
University of San Francisco, Parina Lounge, University Center, Main Entrance, Golden Gate Avenue and Kitteridge
Host Person: Ms. Janice Cook, Director, Upward Bound Project, (415) 666-6476.

The host person listed for each workshop location will assist you if you need directions to the workshop site.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Lewis, Chief, Education Outreach Branch, Division of Student Services, Room 3060, ROB-3, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2165.

SUPPLEMENTARY INFORMATION: Each application workshop will last approximately a half day. The presentation will include a review of the requirements for filing applications for the Talent Search and Educational Opportunity Centers Programs and a review of the program regulations. In addition, there will be a discussion of the suggested application development guide. The Washington, D.C. workshop will begin at 1:30 p.m. on October 3. Each of the other workshops will begin with registration at 8:30 a.m. and presentations are scheduled from approximately 9:00 to 1:00 p.m. Time will be provided in the afternoon for informal discussions and questions and answers.

There is no registration fee for the workshops.

(Catalog of Federal Domestic Assistance Numbers: 84.044 Talent Search Program; 84.066 Educational opportunity Centers Program)

Dated: September 14, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-24953 Field 9-19-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Second Report to Congress on Status of Natural Gas Markets; Public Comments

AGENCY: Office of Policy, Planning, and Analysis, DOE.

ACTION: Notice requesting written comments.

SUMMARY: The Department of Energy (DOE) is soliciting written comments assessing the current and future status of natural gas markets. The DOE has the responsibility under Section 123 of the Natural Gas Policy Act (NGPA) to prepare two reports on the domestic natural gas market and to seek public comment when preparing each report. The first report was completed in July, 1984 ("First Report Required by Section 123 of the Natural Gas Policy Act of 1978"). The second report will be transmitted to the President and Congress by January 1, 1985. The report and comments will discuss: (1) Natural gas prices, (2) natural gas supply and demand, (3) competitive conditions and market forces in the natural gas industry, and (4) the relative balance or imbalance of supply and demand in both the short-run and the long-run.

DATE: Written comments must be received by November 5, 1984.

ADDRESS: Written comments must be submitted to: Stephen T. Minihan (Acting Director, Division of Oil and Gas Analysis, Office of Policy, Planning, and Analysis), Forrestal Building, Room 7H-034, PE-14, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6423.

FOR FURTHER INFORMATION CONTACT:

Stephen T. Minihan (Acting Director, Division of Oil and Gas Analysis, Office of Policy, Planning, and Analysis), Forrestal Building, Room 7H-034, PE-14, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6423.

James K. White (Assistant General Counsel, Natural Gas and Mineral Leasing), Forrestal Building, Room 6E-042, GC-15, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION: The DOE has the responsibility under Section 123 of the Natural Gas Policy Act (NGPA) to prepare two reports on the domestic natural gas market. The reports will discuss natural gas prices, natural gas supply and demand, competitive conditions and market forces in the natural gas industry, and the balance or imbalance between supply and demand. The first report was transmitted to the President and Congress in July 1984. The second report will provide an update of conditions in the natural gas market and will review the major conclusions of the first report. The second report will be transmitted to the President and the Congress by January 1, 1985.

Section 123(b) requires the DOE to seek public comment during the preparation of each report. The DOE is preparing the second report and requests written comments on the subjects cited above.

The relationship between natural gas supply and demand depends critically on the characteristics of federal regulations and policies governing the natural gas market. For this reason the DOE report will examine natural gas prices, supply, demand, competitive conditions, market forces, and equilibria under a range of alternative federal policies.

DOE will examine these topics within the context of three alternatives depicting the range of potential policies that may govern the natural gas market in the coming years. The three gas market policy alternatives are (1) partial deregulation, (2) permanent extension of NGPA controls, and (3) comprehensive deregulation. "Partial deregulation" assumes gas will be decontrolled as scheduled in the NGPA. "Permanent extension of NGPA controls" assumes the current deregulation provisions of the NGPA are repealed and the gas industry continues to operate under current wellhead regulations. "Comprehensive deregulation" assumes all domestic gas is decontrolled.

These three alternatives are the same alternatives considered in the first report. However, the second report will update natural gas prices and take into account recent changes in the natural gas market.

The NGPA Conference Report (Report No. 95-1752) states that "The reports are required to include an evaluation of whether a supply/demand balance exists in natural gas markets at the time of the reports, and/or whether that balance is expected to exist in the future." In evaluating whether an equilibrium exists between supply and demand, DOE will look at current natural gas production and consumption, and also will examine the prospects for a balance between supply and demand over the longer term. Like the first report, which projected supply and demand to 1995, the second report will use 1995 to illustrate the longer-term balance or imbalance of supply and demand.

Matters of Particular Interest

Commentors are invited to discuss any matters which may help the Department prepare an informative report for the President and the Congress. Comments on the analysis and conclusions presented in "The First Report Required by Section 123 of the Natural Gas Policy Act of 1978" would be especially helpful. The Executive Summary of the First Report is attached as an appendix to this Notice. Given rapidly changing market conditions, commentors are encouraged to provide any new information not available earlier this year. In addition, we seek specific comments on the following questions:

(1) What are the likely trends in U.S. natural gas reserve additions, production, consumption, and prices under the three alternative policies over the next decade?

(2) What effect will recent changes in Canadian natural gas export policy have on the U.S. natural gas market, including competition, prices, reserve additions, consumption, and production?

(3) To what extent have producers and pipelines renegotiated domestic and import contracts in 1984? Have producers and pipelines renegotiated take-or-pay requirements, indefinite price escalators, and minimum bill requirements? How will the renegotiation that has already occurred affect the gas market? What are the impediments to further renegotiations?

(4) Have recent actions such as spot market transactions, Special Marketing Programs (SMP), blanket certificate carriage arrangements, and off-system sales programs increased competition in the natural gas market and resulted in lower gas prices? Do any of these activities offer a near-term alternative to contract renegotiation?

(5) How have FERC Order 380, spot market arrangements, and changing distribution company rate stuctures affected various customer class rates? Are transportation rates and distribution company rates being reduced as rapidly by competitive market pressures as are purchased gas costs?

(6) How competitive are the transportation and distribution sectors of the natural gas industry? Describe the nature of the competition. For example, to what extent do distributors compete with residual fuel dealers and pipelines with other pipelines? What barriers to competition exist? For example, to what extent and under what circumstances

have pipelines refused to carry gas for others?

Comment Procedures

Any person who wishes to file written comments with the DOE must make such filing with the Acting Director, Division of Oil and Gas Analysis by November 5, 1984 at: Forrestal Building, Room 7H-034, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6423. The filing should be labeled "NGPA Section 123 Comments." Seven copies of the comments should be included. Any submission including information considered confidential by the person furnishing it must be so identified on the first page of the document. Only one copy of the comments should include the confidential information. The DOE reserves the right to determine the confidential status of the information and treat it according to our determination. All comments (with confidential material excluded) received by the DOE will be available for public inspection in the Public Reading Room, Room 1E-190, of the Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on September 17, 1984.

Jan W. Mares,

Assistant Secretary for Policy, Safety, and Environment.

Appendix to the Federal Register Notice for the Second Section 123 Report—Executive Summary from "The First Report Required by Section 123 of the Natural Gas Policy Act," DOE/PE-0054, July 1984

Executive Summary

Section 123 of the Natural Gas Policy Act of 1978 (NGPA) requires the Department of Energy to submit two reports on the natural gas market to the President and Congress. This is the first report.

This report examines the current conditions in the natural gas market and analyzes the future effects of three alternative natural gas policies in terms of prices, supply, demand, competitive conditions, market forces, and market equilibrium.

The report concludes that gas prices will not rise significantly or "fly up" after January 1, 1985, when partial decontrol becomes effective under the NGPA. The report also concludes that current federal regulations have inhibited the gas market from responding efficiently to changing market conditions and that the entire Nation would benefit from comprehensive deregulation legislation in the following ways:

- Economic benefits of $33.6 billion to $48.7 billion as a result of greater efficiency, higher domestic gas production, and lower payments for gas and oil imports.
- Recovery of an additional 27 trillion to 48 trillion cubic feet of domestic low-cost, old gas supplies that would not be produced under the NGPA.
- Lower consumer prices for natural gas—$0.56 per thousand cubic feet lower in 1985 than under the NGPA, and $0.27 to $0.45 thousand cubic feet lower from 1986 to 1995 than under the NGPA.
- Higher levels of both domestic gas consumption and domestic gas production than under the NGPA.
- Greater flexibility in the gas market to adjust to changing circumstances, thereby preventing the recurrence of shortages and surpluses.

Current Conditions in the Natural Gas Market

Natural Gas Prices

In 1983, increase in average wellhead and retail natural gas prices moderated for the first time since the NGPA was enacted in 1978. For the years 1979 to 1982, the annual increase in average wellhead gas prices ranged from 14.1 percent to 24.2 percent in real terms. In 1983, wellhead prices increased by only 2.4 percent in real terms.

The cause of this moderation in gas prices was a decline in demand for gas that was largely due to low fuel oil prices, conservation, and reduced industrial activity. In early 1983, average residual fuel oil prices fell below average prices paid by industrial users for gas purchased directly from pipeline companies. This encouraged many industrial gas users to switch to oil at a time when industrial gas use was already low due to economic conditions.

The moderation in natural gas price increases was long overdue and had been delayed by federal regulation of the domestic gas market. Specifically, high take-or-pay provisions engendered by federal wellhead price controls, restricted access to interstate pipeline capacity, and federal restrictions on "gas on gas" competition at the burner tip prevented a timely adjustment in natural gas prices. Natural gas prices continue to be substantially above market-clearing levels because of federal regulation of the domestic gas market.

Under current regulations, natural gas prices are projected to remain stable throughout 1984.

Natural Gas Supply and Demand

Natural gas use peaked in 1979 at 20.2 trillion cubic feet and has steadily declined since then. The major reasons for this decline have been decreasing oil prices, increasing conservation by gas users, and reduced industrial activity.

From 1980 to 1983, annual gas use by the industrial and electric utility sectors declined by more than 2 trillion cubic feet, or about 22 percent. These sectors are sensitive to the relative prices of gas and oil and have the capacity to switch quickly to the less expensive of the two fuels. From 1980 to 1983, gas use in the residential and commercial sectors declined by just over 4 percent. Fuel switching is less prevalent in these sectors; conservation accounts for most of the decline.

Although natural gas use has declined substantially in recent years, the domestic supply of natural gas has remained relatively constant. In a deregulated market, such a condition would have caused natural gas prices to fall. But in the regulated domestic market, prices continued to increase and a surplus developed. The primary causes of the surplus are federal regulations and restricted access to available interstate pipeline capacity. If access were not restricted, competition in the natural gas market would cause natural gas prices to decline.

In 1983, surplus deliverability was estimated to be 3 trillion to 5 trillion cubic feet. Under current federal regulations, surplus deliverability will decline to 1 trillion to 3 trillion cubic feet in 1984, largely because of reductions in natural gas exploration and increased gas consumption.

Responses of Producers and Pipeline Companies to Current Market Conditions

In an attempt to stem declining demand and to keep gas competitive with fuel oil, producers and pipeline companies have taken some actions to reduce take-or-pay liabilities and to lower purchased gas costs. The producer and pipeline company responses to changing market conditions are much less extensive than those that would occur in a deregulated market, but they have had some effect.

Contract Renegotiation. Declining demand in 1982 and 1983, combined with high take-or-pay levels in producer-pipeline contracts, led to a situation in which gas pipeline companies had made more than $700 million in prepayments by early 1983. The prepayment liabilities could grow as large as $10 billion by 1985. Some pipeline companies have been able to use market-out clauses in existing contracts to lower prices and to renegotiate contract terms to reduce minimum take levels. Some producers have forgiven pipeline companies part of their prepayment liabilities or significantly reduced prepayment liabilities in return for reciprocal treatment in the future.

Special Marketing Programs. Many producers and pipeline companies have used Special Marketing Programs (SMP's) to retain or regain price-sensitive industrial sales and to reduce take-or-pay liabilities. SMP's give pipeline companies the opportunity to lower prices and increase sales to eligible customers (those who can switch from gas to oil use) without renegotiating contracts. Like contract renegotiation, SMP's are the result of strong competitive market forces at work in the natural gas market, and they are another indication that the natural gas industry can make certain arrangements to lower prices when the regulatory barriers to such arrangements are eliminated. The effectiveness of current programs has been severely limited by regulations administered by the Federal Energy Regulatory Commission (FERC), and restrictions on access to interstate transmission capacity. Pipeline companies may also restrict SMP's by limiting the form and duration of the SMP's.

At present, FERC's policy is to approve only those programs that result in net benefits to all of a pipeline company's customers, including those who do not have access to SMP gas. While FERC may act to

protect the interests of gas consumers who lack alternatives to their present source of gas supply, restricting SMP's prevents the minimization of gas costs that would occur through competition between gas suppliers. The interests of all gas consumers are best served if pipeline and distribution companies protect their markets by lowering gas costs through competition rather than by relying on regulation. Competition imposes strong pressures on pipeline companies to renegotiate contracts and to reduce their cost of service.

Contract Carriage. The response of gas prices to market conditions also was limited by restrictions on the use of available transportation capacity. Although the transmission of gas owned by others, or contract carriage, increased between 1978 and 1981, it fell slightly in 1982. There are strong indications that the voluntary contract carriage that was provided in 1982 was inadequate. First, many pipeline companies had substantial excess capacity during 1982 as a result of declining demand. Second, most of the producers and consumers who filed public comments during the preparation of this report cited restricted access to the transportation network as the greatest barrier to competition in the natural gas industry.

Future Gas Market Conditions Under Alternative Federal Policies

The three natural gas policy alternatives analyzed in this report are (1) partial deregulation, (2) permanent extension of NGPA controls and expansion of price controls to include deep gas, and (3) comprehensive deregulation. The first alternative assumes that NGPA partial decontrol will occur as scheduled on January 1, 1985. Under this alternative, we estimate that 40 percent to 50 percent of domestic natural gas production would remain under price controls. The second alternative assumes that the current deregulation provisions of the NGPA are repealed and that all domestic natural gas production is subject to price controls. The third alternative assumes deregulation of wellhead prices, mandatory contract carriage, and repeal of demand restraints.

Natural gas wellhead prices are projected to rise only 2.5 percent in 1985 if no new legislation is enacted and the partial price decontrol provisions of the NGPA become effective on January 1, 1985. The slight rise in average wellhead prices will be due to increasing demand and the limited ability to bring the gas surplus to market under partial decontrol in 1985. While indefinite price escalator clauses in existing contracts will allow some wellhead prices to increase substantially upon partial decontrol, the increase in such contract prices as well as average wellhead prices will be limited because the volume of gas subject to contract-induced price fly-up is small, and greater market flexibility will encourage producers and pipeline companies to adjust prices in response to competitive forces. Under this policy alternative, price controls will remain on old gas, causing 27 trillion to 48 trillion cubic feet of low-cost, old gas reserves to be abandoned. In addition, the gas market will be prevented from responding efficiently to changing conditions, causing shortages and surpluses in the future.

Prices would rise substantially in 1985 if NGPA price controls were permanently extended and expanded. Permanent price controls would encourage producers and pipeline companies to maintain existing inflexible contracts and to sign new inflexible contracts. Price controls and inflexible contracts would prevent the market from making the adjustments needed to avoid future imbalances between supply and demand. Permanent extension of NGPA price controls would restrict domestic production and would eventually cause gas shortages. Lack of mandatory contract carriage of gas by interstate pipeline companies would inhibit consumer access to available, low-cost supplies of gas.

In contrast, comprehensive deregulation would stimulate greater competition, price flexibility, and old gas production, thereby causing average consumer prices to fall $0.27 to $0.56 per thousand cubic feet below prices under the NGPA. Comprehensive deregulation would increase low-cost gas production by 27 trillion to 48 trillion cubic feet compared to the other two policies.

Furthermore, under comprehensive deregulation, annual domestic gas production would be about 1 trillion cubic feet higher than under NGPA partial decontrol.

Economic growth will cause gas consumption to increase under all three policies during the 1980's. This growth will eventually eliminate the current surplus deliverability, but how quickly this market adjustment occurs depends on which policy alternative is enacted. The surplus is likely to be depleted in 1985 under comprehensive deregulation, in 1987 under NGPA partial decontrol, and in 1989 under permanent extension of price controls.

By restricting domestic gas production, wellhead price controls subsidize foreign gas and oil producers. Under extended price controls, consumers would pay $20.8 billion more for gas imports between 1985 and 1995 than under NGPA partial decontrol. Under comprehensive deregulation, however, consumers would pay $8 billion less for gas imports than under the NGPA during this period. From 1985 to 1995, oil imports would average 300,000 to 400,000 barrels per day less under comprehensive deregulation than under extended controls and partial decontrol.

Under comprehensive deregulation, greater domestic production and lower imported gas and oil payments would provide net national economic benefits of $33.6 billion compared to partial decontrol between 1985 and 1995. Under permanent extension of NGPA price controls, lower domestic production and higher imported gas and oil payments would lead to net national economic losses of $15.1 billion compared to NGPA partial decontrol between 1985 and 1995.

Only under comprehensive deregulation—which includes deregulation of all wellhead prices, mandatory contract carriage, and repeal of demand restraints—would an efficient equilibrium between supply and demand be achieved and maintained. Wellhead price controls and restricted access to interstate transmission capacity caused shortages in the past as well as the current surplus. Partial decontrol under the NGPA is one step toward solving the problems of the current gas market, but only comprehensive deregulation would prevent the Nation from continuing to swing back and forth between costly shortages and inefficient surpluses. Only comprehensive deregulation would provide adequate natural gas supplies at reasonable prices.

[FR Doc. 84-25002 Filed 9-19-84; 8:45 am]
BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves the reprocessing of the U.S.-supplied fuel at the Tokai reprocessing facility in Japan. This subsequent arrangement would extend the U.S.-Japan Joint Determination, that safeguards may be effectively applied to the reprocessing at the Tokai facility of U.S. supplied fuel, from December 31, 1984 to December 31, 1985.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: September 14, 1984.

Dr. H.A. Merklein,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 84-24232 Filed 9-19-84; 8:45 am]
BILLING CODE 6450-01-M

Procurement and Assistance Management Directorate; Restriction of Eligibility for Grant Award

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7(b), it intends to award on a restricted eligibility basis a grant providing support to the Garfield County, Colorado, Department of Development, for support in the Development of Alternative Fuels Data Base. The grant is valued at $120,000 and is for a 24-month period.

Procurement Request Number: 01-84FE60562.000.

Project Scope: The objective of this grant award is to support the Garfield County Department of Development in developing an information base of verified data that is not only technical and financial, but also includes knowledge that guides policy and regulation in such areas as environment, land and water management, licensing and socio-economic development. This award is restricted to Garfield County Department of Development because much of the commercial oil shale development that is or has been active, as well as proposed, involves development in Garfield County, and the County has a wealth of experience in dealing with developers and the growing federal, state and local entities.

FOR FURTHER INFORMATION CONTACT: Thomas E. Brown, MA-452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone No.: (202) 252-1026.

Issued in Washington, D.C., on September 12, 1984.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 84-24979 Filed 9-19-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Remedial Order; Empire Gas Corp.

AGENCY: U.S. Department of Energy, Economic Regulatory Administration.

ACTION: Notice of proposed remedial order to Empire Gas Corporation.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Empire Gas Corporation, Highway 5 South, Lebanon, Missouri 65536. This Proposed Remedial Order alleges violations in the pricing of motor gasoline of 10 CFR 210.92 and 10 CFR 212.93 for the period May, 1978 through February, 1979. The principal amount of the alleged violations for this period is $818,412.00.

A copy of the Proposed Remedial Order, with confidential information deleted may be obtained from: David H. Jackson, Director, Kansas City Office, ERA (816) 374-2092. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 4th day of September, 1984.

David H. Jackson,

Director, Kansas City Office, Office of Special Counsel, Economic Regulatory Administration.

[FR Doc. 84-24902 Filed 9-19-84; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order; Lantern Petroleum Corp., and John Mills

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Lantern Petroleum Corporation, and John Mills. This Proposed Remedial Order alleges pricing violations in the amount of $534,881.38 plus interest in connection with the resale of crude oil at prices in excess of those permitted under 10 CFR Part 212 during the time period August 1978 through March 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary Johnson, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767-7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room: 6E-066, Washington, D.C. 20585, in accordance with 10 CFR § 205.193.

Issued in Dallas, Texas, on the 5th day of September 1984.

Ben Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 84-24903 Filed 9-19-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objection To Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of September 3 Through September 7, 1984

During the week of September 3 through September 7, 1984, the notice of objection to the proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: September 12, 1984.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Clark Oil & Refining Corp., Milwaukee, WI; Apex Oil Co., Richmond Heights, MO; HRO-0249

On September 6, 1984, Clark Oil Refining Corporation (Clark) 8530 West National Avenue, Milwaukee, Wisconsin 53201, and Apex Oil Company (Apex) 7930 Clayton Road, Richmond Heights, Missouri 63117 filed a Notice of Objection to an amended Proposed Remedial Order which the DOE Office of Special Counsel of the Economic Regulatory Administration (ERA) issued to the firm on August 1, 1984.

In the amended PRO the ERA found that during the period October through December 1973, Clark violated 6 CFR 150.355-56 and 10 CFR 212.83 when it failed to reduce its claimed crude oil costs by the amount of compensation it received for the sale or exchange of fee-free licenses, and that Clark probably continued to make such violations until December 1980. Apex is alleged to share joint and several liability for these violations. According to the PRO the Clark violations resulted in the overstatement of Clark's crude costs for the relevant month(s) of measurement. The PRO requires Clark to revise its monthly refiner reports for the period of price controls, and to recalculate its total costs available for recovery. Any

resulting overcharges would be determined by the Office of Hearings and Appeals.

[FR Doc. 84-24976 Filed 9-19-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board: Demand Subpanel of the Energy R&D Stategy Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Demand Subpanel of the Energy R&D Strategy Panel of the Energy Research Advisory Board.

Date and Time: October 30, 1984—8:30 a.m.–5:00 p.m.

Place: U.S. Department of Energy, 1000 Independent Avenue, SW., Room 4A-110, Washington, D.C. 20585.

Contact: William L. Woodard, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

- Automotive Research Needs.
- Cogeneration Research.
- Behavioral Science Research.
- Report Outline.
- Status of Staff Studies.
- Public Comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC on September 12, 1984.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff Office of Energy Research.

[FR Doc. 84-24977 Filed 9-19-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Research Advisory Board; Infrastructure Subpanel of the Energy R&D Strategy Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Infrastructure Subpanel of the Energy R&D Strategy Panel of the Energy Research Advisory Board (ERAB).

Date and Time: October 30, 1984—9:00 a.m.–5:00 p.m.

Place: Stone and Webster Engineering Corporation, Suite 550, 1875 I Street, NW., Washington, D.C. 20006.

Contact: William L. Woodard, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-5444.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

- Institutional Issues.
- Report on Support Studies.
- Progress Report to be submitted to the Energy Research Advisory Board.
- Public comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on September 12, 1984.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 84-24978 Filed 9-19-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-173-001]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Request Under Blanket Authorization

September 14, 1984.

Take notice that on September 10, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-173-001 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) to amend the authorization granted under Tennessee's blanket certificate issued in Docket No. CP84-173-000 to provide authorization for the transportation of natural gas from two additional points of receipt, to provide for flexible authority to add and delete sources of gas and delivery points, and to extend the term of its transportation service through December 31, 1984, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee states that it filed on January 4, 1984, a request for blanket certificate prior notice authorization to transport natural gas for United States Steel Corporation (U.S. Steel) pursuant to a gas transportation agreement dated November 4, 1983, in Docket No. CP84-173-000. Tennessee states that U.S. Steel purchases gas from Delhi Gas Pipeline Corporation (Delhi), an intrastate pipeline company, which delivers the gas purchased by U.S. Steel to Ozark Gas Transmission System (Ozark) for the account of Tennessee. Tennessee asserts it uses its capacity entitlement in Ozark to facilitate this transportation service. Tennessee states it transports all such gas purchased by U.S. Steel through Ozark to Natural Gas Pipeline Company of America (Natural) at an existing point of interconnection White County, Arkansas, which transports such gas and delivers it to Columbia Gulf Transmission Company (Columbia Gulf) in Cameron Parish, Louisiana. It is stated that Columbia Gulf transports a portion of the gas to Columbia Gas Transmission Corporation (Columbia Gas), which transports that portion of

the gas to Columbia Gas of Ohio, Inc., for delivery to U.S. Steel's Lorain and Haverhill, Ohio, plants. It is stated that the remaining portion of gas is delivered by Columbia Gulf to Transcontinental Gas Pipe Line Corporation (Transco) at a point of interconnection in Evangeline Parish, Louisiana. It is stated that Transco transports this remaining portion to Philadelphia Electric Company for delivery to U.S. Steel at the Fairless, Pennsylvania, plant.

Tennessee seeks authorization for the following two additional points of receipt: (1) an existing point of interconnection between the facilities of Ozark and Oklahoma Natural Gas Company in sec. 5, T. 7 N. R.21 E., Haskell County, Oklahoma, and (2) an exisitng point of interconnection between the facilities of Ozark and Delhi in sec. 5, T. 3 N. R.14 E., Pittsburg County, Oklahoma.

Additionally, Tennessee requests "flexible authority" to add and/or delete sources of gas and/or receipt/delivery points and agrees to undertake certain filing requirements in the implementation of such "flexible authority". Tennessee asserts that any changes in gas suppliers and/or receipt/delivery points would be on behalf of the same end-user at the same end-use locations and would be within the maximum daily volume authorized.

Tennessee further requests authorization to transport gas for U.S. Steel through December 31, 1984. It is stated that this extension is requested pursuant to an amendment dated August 23, 1984, to the November 4, 1983, agreement.

In all other respects, it is said, the transportation service would be rendered under the same terms and conditions authorized previously in Docket No. CP84-173-000

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25038 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-468-000]

Union Texas Petroleum; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 17, 1984.

On August 24, 1984, Union Texas Petroleum (Applicant), located at P.O. Box 52087 Lafayette, Louisiana 70505, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed 1.455 MW topping-cycle cogeneration facility, located in a rural area near Sulphur, Louisiana, will use natural gas to fuel engine-generator sets for power production. Waste heat from the generator's prime movers will be reclaimed, and utilized to satisfy the heat requirements of processing crude oil. Generated power from the facility is to be used throughout the facility to operate pumping and production equipment. Excess power will be sold to a commercial utility company.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25039 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

Central Vermont Public Service Corp.; Filing

[Docket No. ER84-642-000]

September 17, 1984.

The filing Company submits the following:

Take notice that on August 31, 1984, Central Vermont Public Service Corporation (CVPS) tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 97. The proposed changes would decrease revenues from jurisdictional sales and service by $352 for the twelve month period ending October 31, 1984.

CVPS states that the change is proposed in accordance with Article III of CVPS's Power Transmission Contract with Village of Ludlow Electric Light Department which provides that charges will be updated annually to incorporate CVPS' cost experience for the preceding calendar year. CVPS proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24930 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-643-000]

Central Vermont Public Service Corp.; Filing

September 17, 1984.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 31, 1984, tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 89. The proposed changes would decrease

revenues from jurisdictional sales and service by $16,033 for the twelve month period ending October 31, 1984.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's Power Transmission Contract with Vermont Electric Cooperative, Inc. which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Vermont Electric Cooperative, Inc. and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24991 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-644-000]

Central Vermont Public Service Corp.; Filing

September 17, 1984.

The filing Company submits the following:

Take notice that on August 31, 1984, Central Vermont Public Service Corporation (Central Vermont) tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 111. The proposed changes would increase revenues from jurisdictional sales and service $13,292 for the twelve month period ending October 31, 1984.

Central Vermont states that the changes are proposed in accordance with Article V of Central Vermont's Power Purchase Contract with Village of Hyde Park Water and Light Department which provides that charges will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Village of Hyde Park Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24992 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-645-000]

Central Vermont Public Service Corp.; of Filing

September 17, 1984.

The filing Company submits the following:

Take notice that on August 31, 1984, Central Vermont Public Service Corporation (Central Vermont) tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 106. The proposed changes would increase revenues from jurisdictional sales and service by $33,230 for the twelve month period ending October 31, 1984.

Central Vermont states that the change is proposed in accordance with Article V of Central Vermont's Power Purchase Contract with Village of Johnson Water and Light Department which provides that charges will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Village of Johnson Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24993 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-646-000]

Central Vermont Public Service Corp.; Filing

September 17, 1984

The filing Company submits the following:

Take notice that on August 31, 1984, Central Vermont Public Service Corporation (Central Vermont) tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 92. The proposed changes would not change revenues from jurisdictional sales and service for the twelve month period ending October 31, 1984. No transactions under the contract have occurred during the preceding twelve months.

Central Vermont states that the change is proposed in accordance with Article V of Central Vermont's Power Purchase Contract with Lyndonville Electric Department which provides that charges will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Lyndonville Electric Department and the Vermont Public Service Board.

Any person wishing to become a party must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North

Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24994 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-647-000]

Central Vermont Public Service Corp.; Filing

September 17, 1984

The filing Company submits the following:

Take notice that on August 31, 1984, Central Vermont Public Service Corporation (Central Vermont) tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 96. The proposed changes would increase revenues from jurisdictional sales and service by $47,472 for the twelve month period ending October 31, 1984.

Central Vermont states that the change is proposed in accordance with Article V of Central Vermont's Power Purchase Contract with Village of Ludlow Electric Light Department which provides that charges will be updated annually to incorporate Central Vermont's purchased power cost experience for the preceding twelve months ending October and Central Vermont's capacity cost associated with company-owned generating facilities for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person wishing to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24995 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-652-000]

Central Vermont Public Service Corp.; Filing

September 17, 1984.

The filing Company submits the following:

Take notice that on August 31, 1984, Central Vermont Public Service Corporation (Central Vermont) tendered for filing proposed changes in its Electric Service Rate Schedule FERC No. 110. The proposed changes would increase revenues from jurisdictional sales and service by $10 for the twelve month period ending October 31, 1984.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's Power Transmission Contract with Village of Hyde Park Water and Light Department which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Village of Hyde Park Water and Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24996 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-653-000]

Central Vermont Public Service Corp.; Filing

September 17, 1984.

The filing Company submits the following:

Take notice that on August 31, 1984, Central Vermont Public Service Corporation (Central Vermont) tendered for filing changes in its Electric Service Rate Schedule FERC No. 93. The proposed changes would decrease revenues from jurisdictional sales and service by $41 for the twelve month period ending October 31, 1984.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's Power Transmission Contract with Lyndonville Electri Department which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1984.

Copies of this filing were served upon the Lyndonville Electric Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24997 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-641-000]

Delmarva Power & Light Co.; Filing

September 17, 1984.

The filing Company submits the following:

Take notice that on August 31, 1984, Delmarva Power & Light Co. (Delmarva) tendered for filing proposed changes in its FERC Rate Schedule No. 69. Under the changes, Delmarva would provide partial requirements service at 138 kV instead of 34.5 kV when the City of

Newark, Delaware completes the installation of its first 138 kV/34.5 kV transformer and would also provide temporary transformer firming service to the City of Newark pending completion of Newark's construction of a second transformer. Completion of the first 138 kV/34.5 kV transformer is scheduled to take place on or about December 31, 1984. Delmarva's filing also contains a revision of its Transmission Service Rate Schedule to include a rate for transmission voltage service.

Copies of this filing were served upon the City of Newark and the Delaware Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24993 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-41-000]

Neisler, Inc.; Filing

September 17, 1984

Take notice that on August 27, 1984, Neisler, Inc., (Neisler) submitted for filing its petition for declaratory order pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure.

Neisler requests that this Commission issue an order declaring that the Brushy Mountain hydroelectric generating facility (Project) was built prior to enactment of the Federal Power Act (FPA) and that no changes have been implemented which would significantly modify the Project's pre-1935 design operation or involve the construction of any dam or project works across, along, over, in or on a navigable water of the United States.

Neisler also requests that the order state that the Lower Little River is not a navigable water of the United States as defined in the Federal Power Act and that Neisler will not be engaged in any "post-1935 construction" as that term has been defined by the Commission and the courts, neither will the Project affect the interests of interstate or foreign commerce.

Neisler further requests that the order state that Neisler is not required to file either a declaration of interest under Section 23(b) of the FPA or for a license or exemption under the FPA for the project and that Neisler is not subject to the Commission's jurisdiction.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 4, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25001 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-546-000]

Pacific Power & Light Co.; Order Accepting Rates for Filing Subject to Refund or Adjustment, Noting Intervention, Providing Additional Opportunity for Comment, and Deferring Further Procedures

Issued September 14, 1984.

On July 17, 1984, Pacific Power & Light Company (PP&L) filed a Revised Appendix 1 for the State of Idaho to Exhibit C of its Residential Purchase and Sale Agreement with the Bonneville Power Administration (BPA),[1] together with BPA's report on the Average System Cost (ASC) rate pursuant to the Pacific Northwest Electric Power Planning and Conservation Act [2] and the Commission's implementing regulations. The filing, as adjusted by BPA to conform to the approved ASC methodology, reflects PP&L's increased ASC for exchange sales in the State of Idaho as of January 26, 1984.

Notice of PP&L's filing was published in the Federal Register on July 30, 1984, with comments due on or before August 8, 1984.[3] On July 27, 1984, the Direct Service Industrial Customers (DSIs) of BPA filed a timely motion to intervene. The DSIs express an interest in the outcome of PP&L's rate determination and state that there are a number of issues which they wish to raise with regard to the filing. However, while they mention functionalization of certain costs, they have not gone into any detail. A copy of the DSIs' comments to BPA on the PP&L filing is attached to the DSIs' intervention. The DSIs indicate a desire to comment on issues raised by other parties and further state that they may later request a hearing or oral argument.

On August 6, 1984, BPA filed a timely intervention. BPA expresses an interest in the outcome of PP&L's rate determination and states that it will respond to any issues raised by intervenors in the proceeding, it may request an opportunity for oral argument on issues of fact or law.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed interventions of BPA and the DSIs serve to make them parties to this proceeding.

Although the DSIs make reference to aspects of PP&L's filing in their pleading, they state no substantive position on any particular issue.[4] We recognize that the DSIs and other intervenors have filed similar pleadings in a number of prior dockets involving ASC filings. A limited pleading was adequate under the interim ASC rule since its primary function was to establish intervenor status and protect rights pending development of final procedures. However, since the issuance of a final ASC rule in Order No. 337,[5] the Commission has had to focus on specific outstanding issues not resolved by the rule. Thus, Order No. 337 required that, if the parties wished to pursue a particular matter, they must supplement their original pro-forma pleadings providing a list of specific issues, the revenue impact of each issue, and the basis for their stated positions.

If ASC filings are to be processed expeditiously and the Commission is to retain any flexibility in determining what procedural or substantive course is

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[1] *See* Attachment for rate schedule designations.

[2] 16 U.S.C. 839.

[3] 49 FR 30357 (1984).

[4] Although not reiterated in its intervention, BPA's position is effectively reflected in its report on and adjustments to PP&L's rate proposal.

[5] Docket No. RM81-41-000, Sales of Electric Power to Bonneville Power Administration; Methodology and Filing Requirements; Final Rule [FERC Statutes and Regulations ¶ 30,506.]

warranted in a given case, there is every reason to now require that such specification of positions be forthcoming from the outset. Therefore, we take this opportunity to advise potential intervenors in future ASC cases that we will expect a clear identification of contested issues in their initial pleadings. However, inasmuch as the DSIs (and PP&L) have not previously been informed of this approach, we shall provide the parties with a further opportunity to present their cases before we determine how to proceed in this docket. In the meantime, we shall accept PP&L's submittal for filing and defer any decision as to further procedures. As provided in the ASC rule (18 CFR 35.31(c)), the revised ASC rate shall remain subject to refund or other adjustment pending final Commission action.

The Commission orders:

(A) PP&L's revised ASC rate is hereby accepted for filing, to become effective as of January 26, 1984, subject to refund or other adjustment.

(B) The DSIs and PP&L shall have fifteen (15) days from the date of this order in which to supplement their pleading or objections to (1) identify all issues which they contest, (2) explain the basis for any proposed adjustment, and (3) demonstrate associated revenue calculations; all parties shall thereafter have fifteen (15) days in which to respond to the initial comments of any other party.

(C) Pending receipt and review of the information set forth in Paragraph (B) above, further action in this docket is hereby deferred.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment—Pacific Power & Light Company

Docket No. ER84-546-000

Rate Schedule Designations

Designation	Description
Supplement No. 33 to Supplement No. 3 to Pacific Power & Light Company/Bonneville Power Administration Service Agreement under Pacific Northwest Electric Power Planning and Conservation Act FERC Electric Tariff Original Volume No. 1 (Supersedes Supplement No. 24 to Supplement No. 3).	Revised ASC for Idaho Jurisdiction with BPA Report.

[FR Doc. 84-25002 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-639-000]

Puget Sound Power & Light Co., Filing

September 17, 1984.

The filing Company submits the following:

Take notice that on August 30, 1984, Puget Sound Power & Light Company (Puget) tendered for filing proposed changes in its Rate Schedule FPC No. 55. The schedule provides that nonfirm energy will be sold at such times and in such amounts as the Company in its sole discretion determines. Therefore, estimates of transactions or revenues under this schedule would not be applicable and would be impossible to make.

The reasons for the proposed change in the rates is to reflect actual costs of the Company's Colstrip Unit No. 3 coalfired generating resource.

Puget requests an effective date of July 30, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed or or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25003 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-640-000]

Tampa Electric Co., Filing

September 17, 1984.

The filing Company submits the following:

Take notice that on August 31, 1984, Tampa Electric Company (Tampa) tendered for filing Service Schedule X providing for extended economy interchange service between Tampa and the City of Kissimmee Electric Utilities (Kissimmee). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing agreement for interchange service between Tampa and Kissimmee, designated as Tampa's Rate-Schedule FERC No. 16.

Tampa proposes an effective date of August 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on Kissimmee and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25004 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-467-000]

Eastman Kodak Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 17, 1984.

On August 24, 1984, Eastman Kodak Company (Applicant), located at 343 State Street, Rochester, New York 14650, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 167 NW topping-cycle cogeneration facility is located at 1699 Lake Avenue, Rochester, New York. The facility consists of five 1400 psig boilers, four 800 psig boilers, one 400 psig boiler and four 260 psig standby boilers supplying five 1400 psig turbine generators, four 800 psig turbine generators and two 260 psig turbine generators. The turbine generators supply extraction and exhaust steam for production processes, plant heating, mechanical drives and refrigeration. The primary energy source of the facility is coal.

Any person desiring to be heard or objecting to the granting of qualifying

status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24999 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-306-001]

Enterprise Products Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 17, 1984.

On August 27, 1984, Enterprise Products Company (Applicant), located at 2727 North Loop West, P.O. Box 4324 Houston, Texas 77210, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at FM 1942 and Hatcherville Road, Mont Belvieu, Texas 77580. The facility will consist of a combustion turbine generator unit, which will have its exhaust heat directed to the waste heat recovery/hot oil system of a natural gas liquids fractionator. The useful thermal energy output will be used to provide process heat for the fractionator. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 5 MW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25000 Filed 9-19-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53064; FRL-2673-3]

Premanufacture Notices; Monthly Status Report for July 1984

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the Federal Register each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for July 1984.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53064]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-229, 401 M Street, SW., Washington, DC 20460, (202-382-3736).

SUPPLEMENTARY INFORMATION: The monthly status report published in the Federal Register as required under section 5(d)(3) of TSCA (90 stat. 2010 (15 U.S.C. 2504)), will identify: (a) PMNs received during July; (b) PMNs received previously and still under review at the end of July; (c) PMNs for which the notice review period has ended during July; (d) chemical substances for which EPA has received a notice of commencement to manufacture during July and (e) PMNs for which the review period has been suspended. Therefore, the July 1984 PMN Status Report is being published.

Dated: September 12, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, July 1984

I. 131 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity and generic name	FR citation	Expiration date
84-899	Generic name: Polyether polyol oligomer	49 FR 28917 (7/13/84)	Sept. 29, 1984.
84-900	1,3,5-Triazine-2,4,6 (1H,3H,5H)-trione, 1,3,5-tris (2,3-dibromopropyl)-	49 FR 28917 (7/13/84)	Do.
84-901	Bis (tetrabromobisphenol A)Bis(tribromophenyl) ethylenetetracarbonate	49 FR 28917 (7/13/84)	Sept. 30, 1984.
84-902	Hexabromodiphenyl amine	49 FR 28917 (7/13/84)	Do.
84-903	N-methylhexabromodiphenyl amine	49 FR 28917 (7/13/84)	Do.
84-904	Generic name: Unsaturated polyester resin	49 FR 28917 (7/13/84)	Do.
84-905	Generic name: Rosin modified phenolic resin	49 FR 28917 (7/13/84)	Do.
84-906	Generic name: Unsaturated polyester resin	49 FR 28917 (7/13/84)	Do.
84-907	Generic name: Rosin modified phenolic resin	49 FR 28917 (7/13/84)	Do.
84-908	Generic name: Functional polyester	49 FR 28917 (7/13/84)	Do.
84-909	Generic name: Modified alkyd resin	49 FR 28917 (7/13/84)	Do.
84-910	Phenol, *p*-allyl	49 FR 28917 (7/13/84)	Do.
84-911	Cyclododecane, (2-methoxyethoxy)-	49 FR 28917 (7/13/84)	Do.
84-912	Benzoxazolium, 5-chloro-2-[2-[[5-chloro-3-(4-sulfobutyl)-2(3H)-benzoxazolylidene]methyl]-1-butenyl]-3-(4-sulfobutyl)-, triethyl ammonium salt.	49 FR 28918 (7/13/84)	Oct. 2, 1984.

I. 131 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-913	Generic name: N,N'-bis(2-(2-(3-alkyl) thiazoline)vinyl)-1,4-phenylene diamine double salt	49 FR 28618 (7/13/84)	Do.
84-914	Benzoic acid, 4-hydroxy-3-methoxy-, ethyl ester	49 FR 28618 (7/13/84)	Do.
84-915	Generic name: Acrylic modified alkyd resin	49 FR 28618 (7/13/84)	Do.
84-916	Generic name: Mixed chromium complexes of substituted hydroxyphenyl azo hydroxynaphthalenes, amine salts.	49 FR 29451 (7/20/84)	Oct. 3, 1984.
84-917	Generic name: Mixed chromium complexes of substituted hydroxyphenol azo hydroxynaphthalenes, sodium salts.	49 FR 29451 (7/20/84)	Do.
84-918	Generic name: Urethane-ester polymer	49 FR 29452 (7/20/84)	Do.
84-919	Generic name: Urethane-ester polymer	49 FR 29452 (7/20/84)	Do.
84-920	Generic name: Urethane-ester polymer	49 FR 29452 (7/20/84)	Do.
84-921	Generic name: Hydroxyl functional styrene-acrylic polymer	49 FR 29452 (7/20/84)	Oct. 6, 1984.
84-922	3,5-dinitrobenzyl chloride	49 FR 29452 (7/20/84)	Do.
84-923	Generic name: Polyurethane prepolymer	49 FR 29452 (7/20/84)	Do.
84-924	Generic name: Substituted anthraquinone	49 FR 29452 (7/20/84)	Oct. 7, 1984.
84-925	Generic name: Substituted substituted anthraquinone	49 FR 29452 (7/20/84)	Do.
84-926	Generic name: Hydroxyl-terminated poly(oxyalkylene) polyol	49 FR 29452 (7/20/84)	Do.
84-927	Generic name: Carbopolycyclic alkenyl ether	49 FR 29452 (7/20/84)	Do.
84-928	Polymer: 2-Butenedioic acid (Z)-, monomethyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-l-methylpropyl hydrogen 2-butene-dioate, potassium hydroxide.	49 FR 29452 (7/20/84)	Do.
84-929	Polymer: 2-Butenedioic acid (Z)-, monomethyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-l-methylpropyl hydrogen 2-butenedioate, sodium hydroxide.	49 FR 29452 (7/20/84)	Do.
84-930	Polymer: 2-Butenedioic acid (Z)-, monomethyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-l-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide.	49 FR 29452 (7/20/84)	Do.
84-931	Polymer: 2, Butenedioic acid (Z)-, monomethyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-2-methylpropyl hydrogen 2-butenedioate, potassium hydroxide.	49 FR 29452 (7/20/84)	Do.
84-932	Polymer: 2, Butenedioic acid (Z)-, monomethyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-2-methylpropyl hydrogen 2-butenedioate, sodium hydroxide.	49 FR 29453 (7/20/84)	Do.
84-933	Polymer: 2, Butenedioic acid (Z)-, monomethyl ester, polymer with ethenylbenzene, 2,5-furandione and (Z)-2-methylpropyl hydrogen 2-butenedioate, ammonium hydroxide.	49 FR 29453 (7/20/84)	Do.
84-934	Generic name: Polyamide	49 FR 29453 (7/20/84)	Do.
84-935	Generic name: Polyamide	49 FR 29453 (7/20/84)	Do.
84-936	Generic name: Aromatic keto-ester	49 FR 29453 (7/20/84)	Do.
84-937	Polymer of Desmodur W, teracol 650, hydroxy ethyl acrylate, jeffamine	49 FR 29453 (7/20/84)	Do.
84-938	Polymer of hydroxy ethyl acrylate, polyisocyanate T 1890/100	49 FR 29453 (7/20/84)	Do.
84-939	Generic name: Polymer of Desmodur W, caprolactone diol, hydroxy ethyl acrylate, jeffamine	49 FR 29453 (7/20/84)	Do.
84-940	Generic name: Vinyl acetate-acrylic copolymer	49 FR 29453 (7/20/84)	Do.
84-941	Generic name: Substituted polyisobutenylsuccinimde	49 FR 29453 (7/20/84)	Oct. 8, 1984.
84-942	Generic name: Acrylated epoxysilicone	49 FR 29453 (7/20/84)	Do.
84-943	Generic name: Aromatic alkyl ether	49 FR 29453 (7/20/84)	Do.
84-944	Generic name: Aromatic alkyl ether	49 FR 29453 (7/20/84)	Do.
84-945	Generic name: Trisubstituted aminobenzoic acid ester	49 FR 29453 (7/20/84)	Oct. 9, 1984.
84-946	Generic name: Modified epoxy resin solution	49 FR 30238 (7/27/84)	Oct. 10, 1984.
84-947	Generic name: Modified pigment yellow 12	49 FR 30239 (7/27/84)	Do.
84-948	Oxidase alcohol	49 FR 30239 (7/27/84)	Do.
84-949	Generic name: Modified epoxy resin	49 FR 30239 (7/27/84)	Do.
84-950	Generic name: Dimer acids, monocarboxylic acid, polyamines polyamide resin	49 FR 30239 (7/27/84)	Do.
84-951	Generic name: Substituted aminobenzoic acid ester	49 FR 30239 (7/27/84)	Do.
84-952	Generic name: Ketimine	49 FR 30239 (7/27/84)	Oct. 13, 1984.
84-953	Generic name: Reacted epoxy resin	49 FR 30239 (7/27/84)	Do.
84-954	Generic name: Substituted aromatic	49 FR 30239 (7/27/84)	Do.
84-955	Generic name: Modified polyester resin	49 FR 30239 (7/27/84)	Do.
84-956	Generic name: Polyester resin	49 FR 30239 (7/27/84)	Do.
84-957	Generic name: Polyester resin	49 FR 30239 (7/27/84)	Do.
84-958	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylate	49 FR 30239 (7/27/84)	Oct. 14, 1984.
84-959	Generic name: Substituted polyamine	49 FR 30239 (7/27/84)	Do.
84-960	Generic name: Complex polyurethane	49 FR 30239 (7/27/84)	Do.
84-961	Generic name: Modified polymer of styrene with alkyl methacrylates	49 FR 30240 (7/27/84)	Do.
84-962	Generic name: Metal salt of phosphoric acid ester	49 FR 30240 (7/27/84)	Do.
84-963	6-Nitro-2(3H)-benzoxazolone	49 FR 30240 (7/27/84)	Do.
84-964	Generic name: Disubstituted hexanamide	49 FR 30240 (7/27/84)	Do.
84-965	Generic name: Alkyd resin	49 FR 30240 (7/27/84)	Do.
84-966	Generic name: Oligomeric diol	49 FR 30240 (7/27/84)	Do.
84-967	Generic name: Polyether urethane polymer	49 FR 30240 (7/27/84)	Do.
84-968	Generic name: Alkyl ester	49 FR 30240 (7/27/84)	Do.
84-969	Generic name: Modified sodium polyacrylate	49 FR 30240 (7/27/84)	Do.
84-970	Generic name: Substituted sodium sulfosuccinamate	49 FR 30240 (7/27/84)	Do.
84-971	Generic name: 2-propanol-1,1 thiobis, oxirane extended, alkyl terminated	49 FR 30240 (7/27/84)	Do.
84-972	Generic name: Epoxidized alcohol	49 FR 30240 (7/27/84)	Do.
84-973	Generic name: Substituted triazine	49 FR 30240 (7/27/84)	Do.
84-974	Generic name: Acrylic ester terpolymer	49 FR 30241 (7/27/84)	Do.
84-975	Generic name: Polymer of aliphatic diamines, and alkanediol polyester, a monoalcohol polyether, a metal salt of an alkenediol polyether, and aliphatic diisocyanate.	49 FR 30241 (7/27/84)	Oct. 15, 1984.
84-976	Generic name: Polyamic acid	49 FR 30241 (7/27/84)	Do.
84-977	Generic name: Aluminum modified long oil alkyd 85% in white spirit	49 FR 30241 (7/27/84)	Oct. 16, 1984.
84-978	Generic name: Polyurea polyurethane polymer	49 FR 30241 (7/27/84)	Do.
84-979	Generic name: Polyurea polyurethane polymer	49 FR 30241 (7/27/84)	Do.
84-980	Generic name: Polyurea polyurethane polymer	49 FR 30241 (7/27/84)	Do.
84-981	Generic name: Polyether poylol oligomer	49 FR 30241 (7/27/84)	Do.
84-982	1,3-bis(1-phenylethyl)benzene	49 FR 30241 (7/27/84)	Do.
84-983	Generic name: Polyester resin based on mixed phthalic acids and mixed polyols	49 FR 30241 (7/27/84)	Do.
84-984	Generic name: Modified polyester polyurethane	49 FR 31136 (8/3/84)	Oct. 17, 1984.
84-985	Generic name: Modified terpolymer of maleic anhydride, styrene and 1-substituted alkene, sodium salt.	49 FR 31137 (8/3/84)	Do.
84-986	4,4'-bis[4-[3-acetylamino-4-(4,8-disulfo-2-maphthylazo)]anilino-6-(3-carboxypyridinio)-1,3,5-triazin-2-ylamino]-2,2'-disulfostilbene dihydroxide hexasodium salt.	49 FR 31137 (8/3/84)	Oct. 20, 1984.
84-987	2,4-bis[4-[3-acetylamino-4-(4,8-disulfonate-2-naphthylazo)anilino]-6-(3-carboxypridinio)-1,3,5-triazin-2-ylamino]benzensulfonate-dihydroxied=pentasodium.	49 FR 31137 (8/3/84)	Do.
84-988	Hexasodium salt = 1,4-bis[4-(3-carboxypyridinio)-6-[3,6-disulfo-8-hydroxy-7-(2-sulfophenylazo)-1-naphtylamino]-1,3,5-triazine-2-ylaminio]benzene-dihydroxide.	49 FR 31137 (8/3/84)	Do.
84-989	4-amino-3,6-bis[5-[4-(3-carboxypridinio)-6-(4-chloro-3-sulfonateanilino)-1,3,5-triazin-2-ylamino]-2-sulfonato-phenylazo]-5-hydroxy-2,7-naphthalene-disulfonate-dihydroxid, hexasodium.	49 FR 31137 (8/3/84)	Do.

I. 131 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
84-990	[2-[alpha[3-[4-(3-carboxypyridinio)-6-(2-chloro-5-sulfoanilino)-1,3,5-trazin-2-yl]amino]-2-hydroxy-5-sulfophenylazo]benzylidene hydrazino]-4-sulfobenzoato-(0,0')(5)]copper (II) acid trisodium salt hydroxide.	49 FR 31137 (8/3/84)	Do.
84-991	Cellulose, acetate propenoate, [(1-oxo-2-propenyl)amino] methyl ether	49 FR 31137 (8/3/84)	Oct. 21, 1984.
84-992	Generic name: Polyurethane polymer	49 FR 31137 (8/3/84)	Do.
84-993	1,3-phenylene-bis(3-methyl-1-phenylpentylidene) bis-lithium	49 FR 31137 (8/3/84)	Do.
84-994	Generic name: Modified corn oil	49 FR 31137 (8/3/84)	Do.
84-995	Generic name: Aromatic substituted ammonium sulfimide	49 FR 31137 (8/3/84)	Do.
84-996	Generic name: Poly alkyl benzene sulfonic acid	49 FR 31137 (8/3/84)	Oct. 22, 1984.
84-997	Generic name: Poly alkyl benzene sulfonic acid	49 FR 31138 (8/3/84)	Do.
84-998	Generic name: Poly alkyl benzene sulfonic acid	49 FR 31138 (8/3/84)	Do.
84-999	Generic name: Poly alkyl benzene sulfonic acid	49 FR 31138 (8/3/84)	Do.
84-1000	Generic name: Benzene alkyl sulfonic acid	49 FR 31138 (8/3/84)	Do.
84-1001	Generic name: Ethoxylated sorbitol, fatty acid ester	49 FR 31138 (8/3/84)	Oct. 23, 1984.
84-1002	Generic name: Hydroxyl-terminated poly(oxyalkylene)polyol containing polyurea	49 FR 31138 (8/3/84)	Do.
84-1003	Generic name: Hydroxyl-terminated poly(oxyalkylene)polyol containing polyurea	49 FR 31138 (8/3/84)	Do.
84-1004	Generic name: Dihydroxyalkylamine	49 FR 31138 (8/3/84)	Do.
84-1005	Generic name: Alkyl amine derivative	49 FR 32110 (8/10/84)	Oct. 24, 1984.
84-1006	Terpolymer of isoprene, styrene and alpha-methylstyrene	49 FR 32110 (8/10/84)	Do.
84-1007	Generic name: 3-alkyl-2-(2-anilino)vinyl thiazo-linium salt	49 FR 32110 (8/10/84)	Do.
84-1008	Generic name: Alkyl thiadiazole	49 FR 32110 (8/10/84)	Do.
84-1009	Generic name: Aliphatic polycarbonate urethane	49 FR 32110 (8/10/84)	Do.
84-1010	Generic name: Aliphatic polycarbonate urethane	49 FR 32110 (8/10/84)	Do.
84-1011	Generic name: Aliphatic polyester urethane	49 FR 32110 (8/10/84)	Do.
84-1012	Generic name: Aliphatic polyester urethane	49 FR 32110 (8/10/84)	Do.
84-1013	Generic name: Aliphatic polyether urethane	49 FR 32111 (8/10/84)	Do.
84-1014	Generic name: Aliphatic polyether urethane	49 FR 32111 (8/10/84)	Do.
84-1015	Generic name: Modified acrylamide polymer	49 FR 32111 (8/10/84)	Do.
84-1016	Generic name: Modified acrylamide polymer	49 FR 32111 (8/10/84)	Do.
84-1017	Generic name: Modified acrylamide polymer	49 FR 32111 (8/10/84)	Do.
84-1018	Generic name: Urethane adduct	49 FR 32111 (8/10/84)	Oct. 27, 1984.
84-1019	Generic name: Polysubstituted alkyl thiocyanate	49 FR 32111 (8/10/84)	Do.
84-1020	Generic name:Isophthalic polyester	49 FR 32111 (8/10/84)	Do.
84-1021	Generic name: Modified styrene-divinylbenzene polymer	49 FR 32111 (8/10/84)	Do.
84-1022	Generic name: Modified styrene-divinylbenzene polymer	49 FR 32111 (8/10/84)	Do.
84-1023	Quadpolymer of isoprene, 1,3-butadiene, styrene and alpha-methylstyrene	49 FR 32111 (8/10/84)	Oct. 28, 1984.
84-1024	Generic name: Alkyl substituted 4-amino, 1-8 naphthalimide	49 FR 32111 (8/10/84)	Do.
84-1025	Generic name: Modified essential oil	49 FR 32111 (8/10/84)	Do.
84-1026	Generic name: Phenol, benzylic ether	49 FR 32111 (8/10/84)	Do.
84-1027	Generic name: Sulfurized reaction products of animal oil, vegetable fatty ester, olefin and turpentine.	49 FR 32111 (8/10/84)	Do.
84-1028	1,4 dimethylol cyclohexane ethoxylate propoxylate	49 FR 32112 (8/10/84)	Do.
84-1029	Generic name: Polyether aromatic isocyanate terminated prepolymer	49 FR 32112 (8/10/84)	Do.

II. 102 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity/generic name	FR citation	Expiration date
84-794	Generic name: Benzoselenazole based cyanine dye	49 FR 24782 (6/15/84)	Aug. 29, 1984.
84-795	Generic name: Carbomonocyclic, carbopolycyclic polyester	49 FR 24782 (6/15/84)	Do.
84-796	Generic name: Polyfunctional aziridine	49 FR 24782 (6/15/84)	Sept. 1, 1984.
84-797	N-ethyl-N-(4-nitrophenyl) ethanamide	49 FR 24782 (6/15/84)	Do.
84-798	N-[4-(ethylamino)phenyl]methansulfonamide	49 FR 24783 (6/15/84)	Do.
84-799	N-ethyl-4-nitrobenzeneamine	49 FR 24783 (6/15/84)	Do.
84-800	Generic name: Pentasubstituted naphthalenecarboxamide	49 FR 24783 (6/15/84)	Do.
84-801	N-ethyl-N-[4-[(methylsulfonyl)amino]phenyl] ethanamide	49 FR 24783 (6/15/84)	Do.
84-802	Generic name: Aromatic diamine polymer with epoxy phenol novolac	49 FR 24783 (6/15/84)	Sept. 2, 1984.
84-803	Generic name: Modified alkylphenol resin	49 FR 24783 (6/15/84)	Do.
84-804	Generic name: Modified alkylphenol resin	49 FR 24783 (6/15/84)	Do.
84-805	Generic name: Modified alkylphenol resin	49 FR 24783 (6/15/84)	Do.
84-806	Generic name: Modified alkylphenol resin	49 FR 24783 (6/15/84)	Do.
84-807	Generic name: Modified alkylphenol resin	49 FR 24783 (6/15/84)	Do.
84-808	Generic name: Modified alkylphenol resin	49 FR 24783 (6/15/84)	Do.
84-810	Generic name: Mixture of saturated terpenes	49 FR 24783 (6/15/84)	Do.
84-811	Generic name: Polysiloxane resin	49 FR 24783 (6/15/84)	Do.
84-812	Generic name: Acrylourethane	49 FR 24784 (6/15/84)	Do.
84-813	Generic name: Disubstituted, phenyl propanol	49 FR 24784 (6/15/84)	Do.
84-814	Generic name: Polysubstituted polyol	49 FR 24784 (6/15/84)	Do.
84-815	Polycaprolactone diol, adduct with modified 4,4'-diphenylmethane diisocyanate and polypropoxylated glycerol	49 FR 24784 (6/15/84)	Sept. 3, 1984.
84-816	Generic name: Organophosphonium salt	49 FR 24784 (6/15/84)	Do.
84-817	Generic name: Metallic alkyl alkoxides complex	49 FR 24784 (6/15/84)	Do.
84-818	Generic name: Metallic alkyl alkoxides complex	49 FR 24784 (6/15/84)	Do.
84-819	Generic name: Metallic alkyl alkoxides complex	49 FR 24784 (6/15/84)	Do.
84-820	Generic name: Phosphonium salt	49 FR 24784 (6/15/84)	Do.
84-821	Generic name: Acrylic modified epoxy resin	49 FR 24784 (6/15/84)	Sept. 4, 1984.
84-822	Generic name: Modified styrene-divinylbenzene polymer	49 FR 24784 (6/15/84)	Do.
84-823	Generic name: Substituted stilbene	49 FR 24784 (6/15/84)	Do.
84-824	Generic name: Brominated aromatic	49 FR 25676 (6/22/84)	Sept. 5, 1984.
84-825	Generic name: Polymer of substituted polyalkylene polyamine and substituted alkane, alkyl carboxylate	49 FR 25676 (6/22/84)	Do.
84-826	Generic name: Polymer of aliphatic polyamines, dihaloalkane, aliphatic diacid	49 FR 25676 (6/22/84)	Do.
84-827	Generic name: Polymer of aliphatic polyamines, dihaloalkane, organic diamine	49 FR 25677 (6/22/84)	Do.
84-828	Generic name: Polymer of substituted polyalkylene polyamine and substituted alkane	49 FR 25677 (6/22/84)	Do.
84-829	Generic name: Polymer of adipic acid, polyalkylene glycol and alkanepolyol	49 FR 25677 (6/22/84)	Sept. 8, 1984.
84-830	Generic name: Sytrene, nitrile, acrylic copolymer	49 FR 25677 (6/22/84)	Do.
84-831	Generic name: Styrene acrylic copolymer	49 FR 25677 (6/22/84)	Do.
84-832	Generic name: Acrylic polymer	49 FR 25677 (6/22/84)	Do.
84-833	Generic name: Substituted anthraquinone	49 FR 25677 (6/22/84)	Do.
84-834	Generic name: Trisazo dye	49 FR 25677 (6/22/84)	Do.

II. 102 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
84-835	Generic name: Trisazo dye	49 FR 25677 (6/22/84)	Do.
84-836	Generic name: Trisazo dye	49 FR 25677 (6/22/84)	Do.
84-837	Generic name: Polyurea urethane	49 FR 25677 (6/22/84)	Do.
84-838	Generic name: Tetrasubstituted naphthalenecarboxamide	49 FR 25677 (6/22/84)	Do.
84-839	Generic name: Polyfunctional aziridine	49 FR 25677 (6/22/84)	Do.
84-842	Generic name: Disubstituted benzothiazolium salt	49 FR 25678 (6/22/84)	Sept. 9, 1984.
84-843	Generic name: Modified epoxy prepolymer	49 FR 25678 (6/22/84)	Do.
84-844	Generic name: Amine salt of a styrene-divinyl benzene ion exchange resin	49 FR 25678 (6/22/84)	Sept. 10, 1984.
84-845	Generic name: Vinyl trialkoxy silane	49 FR 25678 (6/22/84)	Do.
84-846	Generic name: Fatty acids, compound with diamines	49 FR 25678 (6/22/84)	Do.
84-847	Generic name: Acrylic copolymer, sodium salt	49 FR 25678 (6/22/84)	Do.
84-848	Generic name: Alkyl thiophosphate amine salt	49 FR 25678 (6/22/84)	Sept. 11, 1984.
84-849	Generic name: Fatty polyacrylate	49 FR 25678 (6/22/84)	Do.
84-850	Generic name: Fatty acrylate polymers	49 FR 25678 (6/22/84)	Do.
84-851	Generic name: Alkyl phosphate amine salts	49 FR 26800 (6/29/84)	Sept. 12, 1984.
84-852	Generic name: Functional polymer of mixed acrylate and methacrylate based monomers	49 FR 26801 (6/29/84)	Do.
84-853	Generic name: Aromatic sulfonate of substituted phenylazo substituted heteromonocycle	49 FR 26801 (6/29/84)	Do.
84-854	(1,1':3',1''-terphenyl)-2'-ol,5'-(octadecyloxy), 4-n-octadecyloxy-2,6-diphenylphenol	49 FR 26801 (6/29/84)	Do.
84-855	Generic name: Blocked isocyanate	49 FR 26801 (6/29/84)	Do.
84-856	Generic name: Blocked isocyanate	49 FR 26801 (6/29/84)	Do.
84-857	Polymer of: epichlorohydrin-bisphenol-A polymer, bisphenol-A, ethyltriphenylphosphonium iodine, formaldehyde, n-butyl alcohol, triethyl amine and phthalic anhydride.	49 FR 26801 (6/29/84)	Do.
84-858	Generic name: Polyalkylene glycol ether acrylate	49 FR 26801 (6/29/84)	Do.
84-859	Generic name: Halophthalimide	49 FR 26801 (6/29/84)	Sept. 15, 1984.
84-860	Generic name: Disbustituted nitrobenzene	49 FR 26801 (6/29/84)	Sept. 16, 1984.
84-861	2[(2-hydroxy-1,1-bis(hydroxymethyl)ethyl)-amino]-ethanesulfonic acid, sodium salt (1:1)	49 FR 26801 (6/29/84)	Do.
84-862	4-(2-hydroxyethyl)piperazine-1-ethanesulfonic acid, sodium salt (1:1)	49 FR 26801 (6/29/84)	Do.
84-863	Generic name: Portein crosslinked by a poly (aliphatic)isocyanate	49 FR 26801 (6/29/84)	Do.
84-864	Generic name: Vinly acetate-acrylate copolymer	49 FR 26801 (6/29/84)	Sept. 17, 1984.
84-865	Generic name: ((Alkyl)(alkyl)amino)polyalkoxy ether sulfate halfester	49 FR 26802 (6/29/84)	Do.
84-866	Generic name: Alkyl methacrylate polymer	49 FR 26802 (6/29/84)	Do.
84-867	Generic name: Alkyl methacrylate polymer	49 FR 26802 (6/29/84)	Do.
84-868	Generic name: Alkyl methacrylate polymer	49 FR 26802 (6/29/84)	Do.
84-869	4-(Acetylamino)-3-nitrobenzoic acid	49 FR 26802 (6/29/84)	Sept. 18, 1984.
84-870	Generic name: Disubstituted nitrobenzoic acid	49 FR 26802 (6/29/84)	Do.
84-871	Generic name: Disubstituted benzotriazole	49 FR 26802 (6/29/84)	Do.
84-872	Polymer of: epsilon-caprolactam, isophorone diisocyanate, dibutyl tin dilaurate, polycaprolactone triol	49 FR 28614 (7/13/84)	Sept. 19, 1984.
84-873	Generic name: Organo alumino silicate	49 FR 28614 (7/13/84)	Do.
84-874	Generic name: Hydroxyl-terminated polyurethane	49 FR 28614 (7/13/84)	Sept. 22, 1984.
84-875	Generic name: Isocyanate-terminated polyurethane	49 FR 28614 (7/13/84)	Do.
84-876	Generic name: Hydroxypropyl methylcellulose	49 FR 28614 (7/13/84)	Sept. 23, 1984.
84-877	Generic name: Polyamide polyether polymer	49 FR 28614 (7/13/84)	Do.
84-878	Generic name: Modified milamine/formaldehyde/alcohol resin	49 FR 28614 (7/13/84)	Do.
84-879	Generic name: Substituted heterocycle	49 FR 28614 (7/13/84)	Do.
84-880	Generic name: Modified melamine formaldehyde polymer	49 FR 28614 (7/13/84)	Do.
84-881	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylates	49 FR 28615 (7/13/84)	Do.
84-882	3,5-dichloro-2-hydroxybenzenesulfonate, disodium	49 FR 28615 (7/13/84)	Do.
84-883	1,10-phenanthroline 1:1 salt with p-toluenesulfonic acid (p-TSA)	49 FR 28615 (7/13/84)	Do.
84-884	Generic name: 1-methyl-1-phenylethyl peroxyester	49 FR 28615 (7/13/84)	Do.
84-885	Generic name: Carboxylic acid chloride	49 FR 28615 (7/13/84)	Do.
84-886	Generic name: Triazine derivative	49 FR 28615 (7/13/84)	Sept. 24, 1984.
84-887	Generic name: Alkanedioic acid, alkyloxy sulfonyl, ammonium salt	49 FR 28615 (7/13/84)	Do.
84-888	Generic name: Substituted styrene	49 FR 28615 (7/13/84)	Do.
84-889	Generic name: Substituted benzaldehyde	49 FR 28615 (7/13/84)	Do.
84-890	Generic name: Substituted polystyrene	49 FR 28615 (7/13/84)	Do.
84-891	Generic name: Epoxy polyurethane	49 FR 28615 (7/13/84)	Sept. 25, 1984.
84-892	Generic name: Quaternized urethane compound	49 FR 28615 (7/13/84)	Do.
84-893	Generic name: Blocked diisocyanate	49 FR 28615 (7/13/84)	Do.
84-894	Generic name: Aromatic amine derivative	49 FR 28615 (7/13/84)	Do.
84-895	Generic name: Substituted-substituted benzenesulfonic acid coupled with substituted-substituted benzenes and substituted nephthalenedisulfonic acid, sodium salt.	49 FR 28616 (7/13/84)	Do.
84-896	Indole-3-acrylic acid	49 FR 28616 (7/13/84)	Sept. 26, 1984.
84-897	3,3',5,5''-tetramethylbenzidine dihydrochloride	49 FR 28616 (7/13/84)	Do.
84-898	Generic name: Polyester polyol	49 FR 28617 (7/13/84)	Do.

III. 113 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)

PMN No.	Identity/generic name	FR citation	Expiration date
80-146	Phosphorodithioic acid *O,O'*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt	45 FR 49153 (7/23/80)	July 29, 1984.
80-147	Phosphorodithioic acid *O,O'*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
84-111	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-112	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-113	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-114	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-115	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-116	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-117	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do.
84-277	Generic name: Spiroglycol	48 FR 57619 (12/30/83)	July 20, 1984.
84-351	Generic name: Substituted benzophenone	49 FR 4256 (2/3/84)	July 5, 1984.
84-415	Chemically exfoliated vermiculite	49 FR 6993 (2/24/84)	July 12, 1984.
84-418	Generic name: Methyl ester of dicarboxylic acid	49 FR 7654 (3/1/84)	July 7, 1984.
84-439	Generic name: Substituted cyclopropane-carboxylic acid	49 FR 7656 (3/1/84)	July 21, 1984.
84-535	Generic name: Alkali metal polycarboxylate	49 FR 13745 (4/6/84)	July 25, 1984.
84-543	Glycine N-[4-[2[4-[1-amino-8 hydroxy-7-phenylazo-3,6-disulfonaphth 2-yl]azo]phenyl]-1,3 benzodiazole-6-yl]azo-3 hydroxy-phenyl]-, a trisodium salt.	49 FR 14802 (4/13/84)	July 27, 1984.
84-555	Generic name: Alkylarylphosphonium halide	49 FR 14803 (4/13/84)	July 1, 1984.

III. 113 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
84-556	Generic name: Polyurethane polymer	49 FR 14803 (4/13/84)	Do.
84-557	Generic name: Substituted alkane diol	49 FR 14803 (4/13/84)	Do.
84-559	Generic name: Acrylated copolymer	49 FR 14804 (4/13/84)	Do.
84-560	Generic name: Acrylate copolymer	49 FR 14804 (4/13/84)	Do.
84-561	Generic name: Low molecular weight modified polyacrylate	49 FR 14804 (4/13/84)	July 2, 1984.
84-562	Polymer of: bromine, polystyrene	49 FR 14804 (4/13/84)	July 2, 1984.
84-563	1,3-phenylene bis (phenyl methanone)	49 FR 14804 (4/13/84)	Do.
84-564	1,3-di (1-phenyl-1-hydroxyethyl)benzene	49 FR 14804 (4/13/84)	Do.
84-565	Polymer of: alpha methyl styrene, 2-ethyl hexyl acrylate, hydroxy ethyl acrylate, cumene hydroperoxide, caprolactone, stannous octoate.	49 FR 14804 (4/13/84)	Do.
84-566	Polymer of: N-(isobutoxymethyl)acrylamide, methyl methacrylate, 2-ethyl hexyl acrylate, acrylic acid, t-butyl peroctoate	49 FR 14804 (4/13/84)	Do.
84-567	Generic name: 2-propenenitrile, polymer with disubstituted 1,3-butadiene	49 FR 14804 (4/13/84)	Do.
84-568	Generic name: Substituted tall oil polymer	49 FR 14804 (4/13/84)	Do.
84-570	Generic name: Alkyl substituted 4-amino, 1-8 naphthalimide	49 FR 14804 (4/13/84)	Do.
84-571	Benzene, 1,1'-ethylidenebis	49 FR 16333 (4/20/84)	July 4, 1984.
84-572	2, 5, 6-trimethyl-4-hepten-1-al	49 FR 16333 (4/20/84)	July 18, 1984.
84-573	3-L-n-menthoxypropane-1,2--diol	49 FR 16334 (4/20/84)	Do.
84-574	Vanillyl n-butyl ether	49 FR 16334 (4/20/84)	Do.
84-575	Acetyl dimethyl tetrahydronaphthalindane	49 FR 16334 (4/20/84)	Do.
84-576	4,4',6-trimethyl-2-(1-propenyl)-1,13-dioxane (cis and trans)	49 FR 16334 (4/20/84)	Do.
84-577	Methyl-2-(2-methyl-3-hydroxy-1-pentenyl)bicyclo (2,2,1)-5-heptene	49 FR 16334 (4/20/84)	Do.
84-578	Methoxy dimethyl tricyclo (5,2,1,0,^{2,6})deceno	49 FR 16334 (4/20/84)	Do.
84-579	Generic name: Substituted alkenol	49 FR 16334 (4/20/84)	July 7, 1984.
84-584	Generic name: Methyl alkanoate ester	49 FR 16334 (4/20/84)	Do.
84-586	Generic name: Alkyl phosphate salt of polyamino amide	49 FR 16335 (4/20/84)	Do.
84-587	Generic name: Alkyl phosphate salt of polyamino amide	49 FR 16335 (4/20/84)	Do.
84-588	Generic name: Alkyl phosphate salt of polyamido polyamine	49 FR 16335 (4/20/84)	Do.
84-589	Generic name: Hydrazone	49 FR 16335 (4/20/84)	Do.
84-590	Generic name: Azo pigment	49 FR 16335 (4/20/84)	Do.
84-592	Generic name: Alkylated biphenyl	49 FR 16335 (4/20/84)	July 8, 1984.
84-593	Generic name: Diazotization product of substituted benzamide and substituted pyridine	49 FR 16335 (4/20/84)	Do.
84-594	Generic name: Dimer acids, dicarboxylic acid, diamines polyamide resin	49 FR 16335 (4/20/84)	Do.
84-595	Generic name: Polyester resin	49 FR 16335 (4/20/84)	Do.
84-596	2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-((2-hydroxy-5-sulfophenyl)azo) potassium salt	49 FR 16335 (4/20/84)	Do.
84-598	Generic name: Alkoxy functional alkyl substituted silicone resin	49 FR 16335 (4/20/84)	July 9, 1984.
84-599	Generic name: Acrylic resin	49 FR 16335 (4/20/84)	July 10, 1984.
84-600	Generic name: Acrylic resin	49 FR 16335 (4/20/84)	Do.
84-601	Generic name: Terpene ester	49 FR 16334 (4/26/84)	July 11, 1984.
84-602	Generic name: Polymerester	49 FR 16334 (4/26/84)	July 14, 1984.
84-603	Generic name: Polymerester	49 FR 16334 (4/26/84)	Do.
84-604	Generic name: Polymer from alkane diols, alkenedioic acid and a carbomonocyclic acid	49 FR 16334 (4/26/84)	Do.
84-605	Generic name: Polyester	49 FR 16334 (4/26/84)	Do.
84-606	Generic name: Polyester of aliphatic polyols, tall oil fatty acids, and aromatic dibasic acids	49 FR 16334 (4/26/84)	Do.
84-607	Generic name: Polyester polymer derived from glycols and diols and cyclic and alkyl dicarboxylic acids	49 FR 16334 (4/26/84)	July 15, 1984.
84-609	Generic name: Styrenated drying oil alkyd resin	49 FR 16334 (4/26/84)	Do.
84-610	Generic name: Polymer of acrylic acid, acrylic acid esters, and maleic anhydride	49 FR 16334 (4/26/84)	Do.
84-611	Generic name: Copolymer of acrylic acid, acrylic acid esters and maleic anhydride	49 FR 16335 (4/26/84)	Do.
84-612	Generic name: Isocyanato functional polycarbamoyl (polyalkylene oxide)oligomer	49 FR 16335 (4/26/84)	July 16, 1984.
84-613	Generic name: Isocyanato functional polycarbamoyl (polyalkylene oxide)oligomer	49 FR 16335 (4/26/84)	Do.
84-614	Generic name: Isocyanato functional polycarbamoyl ricinoleate	49 FR 16335 (4/26/84)	Do.
84-615	Generic name: Isocyanato functional polycarbamoyl (polyalkylene oxide)oligomer	49 FR 16335 (4/26/84)	Do.
84-616	Generic name: Isocyanato functional polycarbamoyl (polyalkylene oxide-co-ricinoleate)oligomer	49 FR 16335 (4/26/84)	Do.
84-617	Generic name: Isocyanato functional polycarbomoyl (polyalkylene oxide-co-ricinoleate)oligomer	49 FR 16335 (4/26/84)	Do.
84-618	Generic name: Isocyanato functional polycarbomoyl (polyalkylene oxide-co-ricinoleate)oligomer	49 FR 16335 (4/26/84)	Do.
84-619	Generic name: Tetrasubstituted indolium salt	49 FR 16335 (4/26/84)	Do.
84-620	Generic name: Disubstituted propenone	49 FR 16335 (4/26/84)	Do.
84-621	Reaction product of phthalocyanine, chlorosulfonic acid, phosphorus trichloride and p-aminophenylbeta-sulfato ethyl sulfonate, potassium salt.	49 FR 22333 (5/1/84)	July 17, 1984.
84-622	Alkyl polyether	49 FR 16335 (4/26/84)	Do.
84-623	Generic name: Cross-linked copolymer of 2 propenamide and 2 propenoic acid sodium salt	49 FR 16335 (4/26/84)	Do.
84-624	Generic name: Cyclic and aliphatic unsaturated ketones	49 FR 19111 (5/4/84)	July 18, 1984.
84-625	Generic name: 1,3 benzenedicarboxylic acid polymer with 1,2 propanediol, adipic acid, other dicarboxylic acids and polyols	49 FR 19111 (5/4/84)	Do.
84-626	Generic name: Organotin compound	49 FR 19111 (5/4/84)	Do.
84-627	Generic name: Organotin compound	49 FR 19111 (5/4/84)	Do.
84-628	Generic name: Modified methacrylate copolymer	49 FR 19111 (5/4/84)	Do.
84-629	Generic name: Modified epoxy resin	49 FR 19111 (5/4/84)	Do.
84-630	Generic name: Fatty alcohol, phthalic acid diester	49 FR 19111 (5/4/84)	Do.
84-631	Generic name: Trisubstituted benzenesulfonic acid derivative	49 FR 19111 (5/4/84)	Do.
84-632	Generic name: Diisocyanate polyether urethane prepolymer	49 FR 19111 (5/4/84)	July 21, 1984.
84-633	Polymer of: vinyl chloride, dimethyl ester of maleic acid, diethyl ester of maleic acid	49 FR 19111 (5/4/84)	Do.
84-634	Void		
84-635	Void		
84-636	Void		
84-637	Generic name: Modified acrylic resin	49 FR 19112 (5/4/84)	July 22, 1984.
84-638	Polymer of: neopentyl glycol, 1,6-hexanediol, isophthalic acid, butyl stannoic acid, adipic acid, phthalic anhydride and trimellitic anhydride.	49 FR 19112 (5/4/84)	Do.
84-639	Generic name: Aliphatic aromatic polyamic acid polymer	49 FR 19112 (5/4/84)	Do.
84-640	Void		
84-641	Invalid		
84-642	Cesium hydrogen carbonate (carbonic acid monocesium salt)	49 FR 19112 (5/4/84)	Do.
84-643	Copper permanganate	49 FR 19112 (5/4/84)	Do.
84-644	Zinc permanganate hexahydrate	49 FR 19112 (5/4/84)	Do.
84-645	Generic name: Terephthalic acid and aliphatic dicarboxylic acid polymer with polytetramethylene ether glycol and alkane diols	49 FR 19112 (5/4/84)	Do.
84-646	Generic name: Terephthalic acid and aliphatic dicarboxylic acid polymer with polytetramethylene ether glycol and alkane diols	49 FR 19112 (5/4/84)	Do.
84-647	Generic name: Styrene acrylate acrylic acid copolymer	49 FR 19112 (5/4/84)	Do.
84-648	Polymer of: neopentyl glycol, trimethylol propane, phthalic anhydride, maleic anhydride	49 FR 19113 (5/4/84)	July 23, 1984.
84-652	Generic name: Perfluoroalkyl phosphate	49 FR 19113 (5/4/84)	July 24, 1984.
84-653	Generic name: Perfluoroalkyl phosphate ammonium salt	49 FR 19113 (5/4/84)	Do.
84-654	Generic name: Magnesium carboxylate	49 FR 19113 (5/4/84)	Do.
84-655	Generic name: Cerium salt of fatty acid	49 FR 19113 (5/4/84)	Do.

III. 113 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
84-656	Generic name: Substituted ammonium phenyl-phosphonate	49 FR 19113 (5/4/84)	Do.
84-657	Generic name: Sulfonated amino naphthalene	49 FR 19113 (5/4/84)	Do.
84-658	Polymer of: epsilon-caprolactam, 2,4, toluene diisocyanate, epsilon-caprolactam triol	49 FR 19113 (5/4/84)	Do.
84-659	Generic name: Iron complex of a substituted phenyl azo	49 FR 19113 (5/4/84)	Do.
84-661	Generic name: Polyuethane plastics	49 FR 19113 (5/4/84)	Do.
84-662	Generic name: Polyol resin	49 FR 20061 (5/11/84)	July 25, 1984.
84-663	Generic name: Halogenated vinyl monomer	49 FR 20061 (5/11/84)	Do.
84-666	Generic name: Starch, 2 diethylaminoethylether hydrochloride, 2 acetamido-N-(2-substituted alkyl-) N-methylether	49 FR 20061 (5/4/84)	Do.
84-667	Generic name: Polyester from carbomonocyclic acid and alkylene glycol	49 FR 20061 (5/11/84)	Do.
84-668	Generic name: Polyester from carbomonocyclic ester and alkylene glycol	49 FR 19114 (5/4/84)	July 22, 1984.
84-670	Generic name: Polymer with methyl methacrylate, butyl acrylate, methacrylic acid and hydroxy acrylic monomers	49 FR 19114 (5/4/84)	Do.
84-671	Generic name: Substituted-[4,5-dihydro-3-methyl-5-oxo-(substituted carbomonocylic)-1H-pyrazol-4-yl]azo]-benzenesulfonic acid	49 FR 20061 (5/11/84)	July 29, 1984.
84-674	Cuprate(2), [substituted[[[3-(dimethylamino)propyl]amino]sulfonyl]-29H,31H-phthalocyanine-substituted-sulfonato(4-)-N 29,N 30,N 31,N32]-, sodium formate.	49 FR 20061 (5/11/84)	Do.
84-675	4-Benzoyl-N,N,N-trimethylbenzenemethanaminium chloride	49 FR 20062 (5/11/84)	Do.
84-676	Generic name: Methacrylate copolymer	49 FR 20062 (5/11/84)	July 30, 1984.
		49 FR 20062 (5/11/84)	July 31, 1984.

IV. 28 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
81-652	Generic name: Carbocyclic diisocyanate	47 FR 1020 (1/8/82)	June 12, 1984.
82-560	Generic name: Polymer of the homopolymer of hexane, 1,6-diisocyanato-, substituted alkyl alkanoates and a benzene derivative	47 FR 35334 (8/13/82)	June 15, 1984.
83-346	Polymer of 2-propenoic acid, 2-methyl-, methyl ester and 1,3-butyleneglycol diacrylate	48 FR 862 (1/7/83)	July 1, 1984.
83-681	Generic name: Carbocyclic isoyanate	48 FR 21376 (5/12/83)	June 12, 1984.
83-886	Generic name: Carbocyclic diol	48 FR 32381 (7/15/83)	June 8, 1984.
83-887	Generic name: Carbocyclic isocyanate	48 FR 32381 (7/15/83)	June 12, 1984.
83-889	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83-891	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83-943	Generic name: Vinyl aromatic methacrylate Polymer	48 FR 33533 (7/22/83)	June 18, 1984.
83-978	Generic name: Aromatic copolyester	48 FR 34507 (7/29/83)	Oct. 27, 1983.
83-992	Generic name: Copolymer of styrene and an alkyl methacrylate	48 FR 35713 (8/5/83)	June 21, 1984.
83-1043	Generic name: Hydrogen <2-[2-[a[2-hydroxy-3,5-substituted phenyl azo]-arylhydrazino]-4-substitutedaryl]cuprate, sodium salt	48 FR 37700 (8/19/83)	May 10, 1984.
83-1183	Generic name: Substituted polyalkylene polyamine	48 FR 41644 (9/16/83)	June 5, 1984.
84-32	Generic name: Aminomethylene phosphonic acid	48 FR 48865 (10/21/83)	Do.
84-174	Generic name: Titanium (4+) mixed alcohol complex	48 FR 50950 (11/4/83)	May 29, 1984.
84-210	Generic name: 4-substituted benzoyl chloride	48 FR 53162 (11/25/83)	June 20, 1984.
84-308	Generic name: Benzeneamine, 2-substituted-4-2[2-(5-substituted-2,3-dihydro-1,3,3-trialkyl-1H-indol-2-yl)ethenyl]-	49 FR 932 (1/6/84)	May 30, 1984.
84-336	Polymer of melamine, formaldehyde, o,p, toluenesulfonamide, methyl glucoside, sodium hydroxide, guanidine carbonate, magnesium bromide.	49 FR 3524 (1/27/84)	July 20, 1984.
84-337	Polymer of phenol, nonyl phenol, formaldehyde, methyl glucoside, sodium carbonate, ammonium sulfamate	49 FR 3524 (1/27/84)	July 5, 1984.
84-339	Polymer of phenol, nonly phenol, formaldehyde Reax 27D, methyl glucoside, sodium carbonate	49 FR 3525 (1/27/84)	Nov. 1984.
84-436	Cyano ethyl pullulan	49 FR 7656 (3/1/84)	June 12, 1984.
84-455	Generic name: Substituted tetrazole	49 FR 9015 (3/9/84)	May 29, 1984.
84-472	Generic name: Acrylic copolymer	49 FR 9954 (3/16/84)	June 4, 1984.
84-536	Generic name: Short oil coconut alkyd resin based on phthalic anhdride and mixed polyols	49 FR 13745 (4/6/84)	June 20, 1984.
84-540	Generic name: Siloyanes and silicones, dimethyl, methylfluoroalkyl	49 FR 13746 (4/6/84)	July 1, 1984.
84-545	Generic name: Mixed acrylic ester copolymer with monobasic acid modified alkyd resin	49 FR 14803 (4/13/84)	June 20, 1984.
84-550	Generic name: Soybean-tung polyurethane varnish	49 FR 14803 (4/13/84)	July 2, 1984.
84-553	Polymer of ethenyl benzene, isooctyl 2-propenoate, peroxide(3,3,5-trimethylcyclohexylidene)bis(1,1-dimethylethyl)	49 FR 14803 (4/13/84)	July 11, 1984.

V. 94 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity/generic name	FR citation	Date suspended
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982.
83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phoshorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorortriazinylamino-methoxymethylphenylazo-	48 FR 5304 (2/4/83)	Aug. 18, 1983.
83-418	Generic name: Benzenedisulfonic acid, chlorotriazinylaminodimethylphenylazo-sulfonaphthaleneazo-	48 FR 5306 (2/4/83)	Do.
83-461	Generic name: Substituted alkoxy silane	48 FR 7300 (2/18/83)	Apr. 25, 1983.
83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4/22/83)	July 5, 1983.
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naptholazosulfonaphthol	48 FR 20490 (5/6/83)	Aug. 5, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaptholazosulfophenylpyrazolone	48 FR 20491 (5/6/83)	Do.
83-755	4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24968 (6/3/83)	Aug. 15, 1983.
83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthylazosulfonaphthol	48 FR 24968 (6/3/83)	Do.
83-831	Generic name: Disazo solvent red dye	48 FR 29055 (6/24/83)	Sept. 9, 1983.
83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30435 (7/1/83)	Sept. 21, 1983.
83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino]benzene	48 FR 31462 (7/8/83)	Do.
83-876	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31462 (7/8/83)	Do.
83-913	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32383 (7/15/83)	Oct. 1, 1983.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36848 (8/12/83)	Oct. 14, 1983.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36848 (8/12/83)	Do.
83-1012	Generic name: Bis(sulfophenylchlorotriazineaminosulfophenylazo) hydroxyaminodisulfonaphthalene	48 FR 36648 (8/12/83)	Oct. 24, 1983.
83-1018	Generic name: Substituted-napthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl] derivative	48 FR 36649 (8/12/83)	Do.
83-1029	Generic name: Substituted heterocycle	48 FR 37699 (8/19/83)	Nov. 3, 1983.
83-1033	Generic name: C_{6-8} carboxylic acid	48 FR 37700 (8/19/83)	Dec. 8, 1983.
83-1157	Generic name: Substituted oxirane	48 FR 41642 (9/16/83)	Feb. 2, 1984.
83-1162	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Nov. 29, 1983.
83-1163	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Do.
83-1222	Generic name: Substituted alkyl halide	48 FR 43399 (9/23/83)	Feb. 2, 1984.
83-1227	Generic name: Perhalo alkoxy ether	48 FR 43399 (9/23/83)	Do.

V. 94 Premanufacture Notices for Which the Review Period Has Been Suspended—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
83-1228	Generic name: Perhalo alkoxy ether	49 FR 43339 (3/23/83)	Do.
83-1229	Generic name: Perhalo alkoxy ether	49 FR 43339 (3/23/83)	Do.
83-1238	Generic name: Substituted anthraquinone	49 FR 43420 (3/23/83)	Dec. 9, 1983
84-7	N,N,N',N'-tetraglycidyl-1,3-bisaminomethyl cyclohexane	49 FR 43953 (10/14/83)	Dec. 21, 1983.
84-15	Generic name: Substituted heterocyclic metal complex	49 FR 43984 (10/21/83)	Jan. 3, 1984.
83-17	Generic name: Substituted heterocyclic metal complex	49 FR 43 (10/21/83)984	Mar. 1, 1984.
84-18	1(1,1 dimethylethoxy)-propan-2-ol	49 FR 43984 (10/21/83)	Jan. 6, 1984.
84-36	Generic name: Substituted heterocyclic metal complex	49 FR 43985 (10/21/83)	Mar. 1, 1984.
84-50	Generic name: Substituted heterocyclic metal complex	49 FR 50352 (11/4/83)	Do.
84-64	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	49 FR 50353 (11/4/83)	Jan. 5, 1984.
84-68	Generic name: Substituted anthraquinone arylamino	49 FR 50353 (11/4/83)	Dec. 29, 1983.
84-99	Generic name: Hydroxylalkyl ether	49 FR 50345 (11/4/83)	Jan. 11, 1984.
84-108	Generic name: Trisubstituted heterocyclic disubstituted monocyclo	49 FR 50345 (11/4/83)	Mar. 3, 1984.
84-121	Generic name: Substituted heterocyclic metal complex	49 FR 50346 (11/4/83)	Mar. 1, 1984.
84-224	Generic name: Alkoxylated bisphenol A, inorganic ester, monoethanolamine salt	49 FR 55332 (12/12/83)	Apr. 2, 1984.
84-274	Poly (OXY-1,4-butanediyl)-X-(1-OXO-2-propenyl)-w-[—1-XO-2-propenyl)OXY]-	49 FR 57619 (12/30/83)	Mar. 7, 1984.
84-305	Benzoic acid, 2-(((2-(2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 832 (1/6/84)	Mar. 22, 1984.
84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2- oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	49 FR 832 (1/6/84)	Do.
84-341	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydro- omega-hydroxy-, ester with 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethylpropanoate (2:1), di-2-propenoate.	49 FR 3525 (1/27/84)	May 3, 1984.
84-342	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-(1-oxo-2-propenyl)-omega-[(tetrahydro-2-furanyl)methoxy]-	49 FR 3525 (1/27/84)	) Do.
84-343	Poly[oxy(1-oxo-1,6-hexanediyl)], alpha-hydroxy-omega-hydroxy-, ester with 2,2'[oxybis (methylene)]bis[2-(hydroxymethyl)-1,3-propane-diol 2-propenoate.	49 FR 3525 (1/27/84)	Do.
84-344	2-propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl)oxy]ethyl]-5-ethyl-1,3-dioxan-5-yl] methyl ester	49 FR 3525 (1/27/84)	May 4, 1984.
84-358	Generic name: Polyaromatic urethane poly (unsaturated) ester	49 FR 6331 (2/2/84)	Apr. 26, 1984.
84-375	Generic name: Sodium salt of alkyl dithiocar carbamates	49 FR 4331 (2/3/84)	May 11, 1984.
84-376	Generic name: Aryl esters of alkyl dithiocarbamates	49 FR 4331 (2/3/84)	Do.
84-378	Generic name: Aromatic sulfonate of substituted heteropolycycle	49 FR 6161 (2/17/84)	Apr. 30, 1984.
84-379	Generic name: Aromatic sulfonate of substituted heteropolycycle	49 FR 6161 (2/17/84)	Do.
84-380	Generic name: Aromatic sulfonate of substituted heteropolycycle	49 FR 6161 (2/17/84)	Do.
84-382	2-propenoic acid 3-(2-hydroxyethoxy) 3-oxypropyl ester	49 FR 6161 (2/17/84)	June 11, 1984.
84-391	Generic name: Cuprate(5-), [5-hydroxy-2-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted phenyl)azo)-7-sulfo-2-naphthalenyl]amino]-6-[(3-sulfophenyl)amino]]-1,3,5-triazin-2-yl]amino]-6-[(2-hydroxy-5-sulfophenyl)]azo-1,7-naphthalenedisulfonato(7-)], pentasodium.	49 FR 6152 (2/17/84)	Apr. 27, 1984.
84-392	Generic name: Alkoxylated cycloaliphatic diamine	49 FR 6162 (2/17/84)	Do.
84-393	Generic name: 2-Chloro-N-methyl-N-substituted acetamide	49 FR 6162 (2/17/84)	Apr. 24, 1984.
84-416	Dimethylbis(N-ethylacetamido)silane	49 FR 6333 (2/24/84)	May 11, 1984.
84-417	Generic name: Substituted phenol	49 FR 6333 (2/24/84)	May 1, 1984.
84-425	Generic name: Alkyl aryphosphonium salt	49 FR 7655 (3/1/84)	Apr. 13, 1984
84-450	Copper ferrocyanide salt of C. I. basic green I. and C. I. basic yellow I.	49 FR 8015 (3/9/84)	May 9, 1984.
84-451	Copper ferrocyanide salt of C. I. basic blue II	49 FR 8015 (3/9/84)	Do.
84-452	Generic name: Substituted urethane ester	49 FR 8015 (3/9/84)	May 21, 1984.
84-454	Generic name: Halogenated aromatic ether	49 FR 8015 (3/9/84)	May 23, 1984.
84-457	Generic name: Hydrogen 2-[alpha-(2-hydroxy-3-sulfo-5-ethenylsulfonylphenylazo)-benzylidene-hydrazino]-5-nitrobenzoic acid, cuprate, sodium salt.	49 FR 8016 (3/9/84)	July 6, 1984.
84-482	Urea, condensate with poly[oxy(methyl-1,2-ethanediyl), alpha-(2-aminomethylethyl)-omega-(2-aminomethylethoxy)	49 FR 8355 (3/16/84)	June 1, 1984.
84-485	Generic name: Poly(oxy-1,2-ethanediyl)alpha-acyl-w-alkyl	49 FR 11010	June 4, 1984.
84-491	Generic name: Substituted aliphatic acid halide	49 FR 11010 (3/23/84)	June 4, 1984.
84-492	Generic name: Substituted hydroxylamine	49 FR 11010 (3/23/84)	Do.
84-498	Generic name: Fatty alcohol, ethoxylated, propoxylated, fatty acid ester	49 FR 13749 (4/6/84)	June 1, 1984.
84-527	Generic name: Unsaturated amino alkyl ester salt	49 FR 13745 (4/6/84)	June 15, 1984.
84-537	Generic name: Unsaturated amino ester salt	49 FR 13745 (4/6/84)	Do.
84-538	Generic name: Disubstitutedsulfamoylcarbomonocycle azo substituted naphthalene sulfonic acid	49 FR 13745 (4/6/84)	June 21, 1984.
84-558	Generic name: Carboxylated alkane diol	49 FR 14833 (4/13/84)	June 27, 1984.
84-569	Generic name: Polychlorinated alkylated aromatic hydrocarbon	49 FR 14834 (4/13/84)	July 2, 1984.
84-591	Generic name: Sodium salt of an alkylated, sulfonated aromatic	49 FR 16835 (4/20/84)	July 5, 1984.
84-597	Generic name: Blocked aliphatic polyisocyanate	49 FR 16835 (4/20/84)	July 19, 1984.
84-608	Generic name: Substituted oxazinium salt	49 FR 16834 (4/26/84)	July 13, 1984.
84-649	Generic name: Chromate, bis(substituted substituted phenolate)inorganic salts	49 FR 19113 (5/4/84)	July 20, 1984.
84-650	Generic name: Chromate, bis(substituted substituted substituted pyrazolyl), sodium	49 FR 19113 (5/4/84)	Do.
84-651	Generic name: Chromate, bis(substituted substituted naphthalenolate)sodium	49 FR 19113 (5/4/84)	Do.
84-660	Generic name: Substituted aryl olefin	49 FR 19114 (5/4/84)	July 17, 1984.
84-664	Generic name: Chromate, (substituted substituted phenolate)(substituted substituted substituted substituted phenolate)sodium	49 FR 20061 (5/11/84)	July 23, 1984.
84-665	Generic name: Chromate, bis(substituted substituted substituted phenolate), sodium	49 FR 20061 (5/11/84)	Do.
84-669	Oleic, linoleic, palmitic acid ester of ethoxylated C_{12}-C_{18} alcohols	49 FR 20061 (5/11/84)	July 18, 1984.
84-673	Generic name: Chromate (substituted naphthalenolate)(substituted substituted naphthalenolate) inorganic salts	49 FR 20061 (5/11/84)	July 20, 1984.
84-688	2-Thiazium, 2,2'-[(2-carboxy-p-phenylene) bis (iminovinylene)] bis [3-ethyl] dicoide triethylamine salt	49 FR 21114 (5/18/84)	July 27, 1984.
84-698	Generic name: 9,10-Anthracenedione sulfonic acid, sodium salt	49 FR 22123 (5/25/84)	July 25, 1984.
84-742	Generic name: Cross-linked modified polyvinyl amide	49 FR 22869 (6/1/84)	July 23, 1984.
84-809	Generic name: Polyesterimide resin	49 FR 24723 (6/15/84)	July 10, 1984.
84-840	Generic name: Modified epoxy resin	49 FR 25977 (6/22/84)	July 20, 1984.
84-841	Generic name: Modified epoxy resin	49 FR 25978 (6/22/84)	Do.

[FR Doc. 84-24751 Filed 9-19-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-395]

Atchafalaya Savings and Loan Association, Morgan City, LA; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 10, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Atchafalaya Savings and Loan Association, Morgan City, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25011 Field 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-396]

First Federal Savings and Loan Association of Colorado Springs, Colorado Springs, CO; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Colorado Springs, Colorado Springs, Colorado for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Wasington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Topeka, Post Office Box 176, Topeka, Kansas, 66601.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25012 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-397]

First Federal Savings and Loan Association of Council Bluffs, Council Bluffs, IA; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Council Bluffs, Council Bluffs, Iowa, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25013 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-391]

First Federal Savings and Loan Association of Nacogdoches, Nacogdoches, TX; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Nacogdoches, Nacogdoches, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Dallas, 500 E. John Carpenter Freeway, P.O. Box 619026, Dallas, Ft. Worth, Texas 75261.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25007 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-399]

Freedom Federal Savings and Loan Association, Oak Brook, IL; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Freedom Federal Savings and Loan Association, Oak Brook, Illinois, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Chicago, Illinois, 60601.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25015 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-392]

Frontier Federal Savings and Loan Association, Ponca City, OK; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 10, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Frontier Federal Savings and Loan Association, Ponca City, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25008 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-398]

Home Federal Savings and Loan Association, Jonesboro, AR; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association, Jonesboro, Arkansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Dallas, 500 East John Carpenter Freeway, P.O. Box 619026, Dallas/Fort Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25014 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-394]

Pioneer Federal Savings and Loan Association, Clearwater, FL; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 16, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Pioneer Federal Savings and Loan Association, Clearwater, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-25010 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-393]

Valley Federal Savings and Loan Association, Easton, PA; Final Action Approval of Conversion Application

Date: September 14, 1984.

Notice is hereby given that on August 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Valley Federal Savings and Loan Association, Easton, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, 11 Stanwix Street, 4th Floor, Gateway Center, Pittsburgh, Pennsylvania 15222.

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84-25009 Filed 9-19-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Village Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank 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 October 11, 1984.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Village Financial Corporation,* Gilford, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Village Bank & Trust Company, Gilford, New Hampshire.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *National State Bancorporation,* Elizabeth, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The National State Bank of Elizabeth, New Jersey, Elizabeth, New Jersey.

C. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Comp One Corporation,* Piqua, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Piqua National Bank and Trust Company, Piqua, Ohio.

D. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Banquers Holding Company,* Kenner, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Bankers Trust of Louisiana, Kenner, Louisiana.

2. *Whitney Holding Corporation,* New Orleans, Louisiana; to acquire 100 percent of the voting shares of The National Bank of Commerce in Jefferson Parish, Jefferson, Louisiana.

E. Federal Reserve Bank of Chicago (Franklin B. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Clintonville Bancshares, Inc.,* Clintonville, Wisconsin; to become a bank holding company by acquiring 83 percent or more of the voting shares of Dairyman's State Bank, Clintonville, Wisconsin.

2. *Plano Bancshares, Inc.,* Plano, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Plano, Plano, Illinois.

F. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President),

400 South Akard Street, Dallas, Texas 75222:

1. *Union Central Corporation*, Temple, Texas; to become a bank holding company by acquiring 93 percent of the voting shares of The First State Bank, Granger, Texas.

G. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Biltmore Bank Corp.*, Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Biltmore National Bank, Phoenix, Arizona (in organization).

Board of Governors of the Federal Reserve System, September 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24904 Filed 9-19-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Project Grant for Venereal Disease Professional Education; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1985 for a Project Grant for Venereal Disease Professional Education to be funded under the Venereal Disease Control Grant Program as described in the Catalog of Federal Domestic Assistance Number 13.978. This program is authorized by section 318(c) of the Public Health Service Act, as amended (42 U.S.C. 247c(c)). Regulations governing Grants for Venereal Disease Control Programs are codified in Part 51b, Subpart D of Title 42, Code of Federal Regulations.

The objective of this grant program is to reduce morbidity and mortality from venereal disease by meeting the 1990 Objectives for the Nation to prevent cases and their complications. The professional education segment of the grant program is designed to meet the 1990 Objective for the Nation which states that 95 percent of health providers seeing suspected cases of sexually transmitted disease (STD) will be capable of diagnosing and treating all diseases and syndromes that fall within that definition. This will be accomplished by training, educating, and updating STD clinical personnel in the public and private sectors and demonstrating quality standards for the care of patients with STD. The achievement of the 1990 Objective to improve clinical capability and the other Objectives to reduce STD cases and complications are mutually dependent and are national in scope; therefore, it is necessary to assure that this training initiative is coordinated effectively with the basic control components of the local STD program and that both are coordinated with CDC to assure that the total training environment represents a national model. The objective of this specific grant offering is to establish an STD Prevention/Training (P/T) Center in the Southeastern United States to serve the clinical training needs of personnel primarily, although not exclusively, from that area. Any State or political subdivision of a State in Region IV of the Department of Health and Human Services (i.e., Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee) is eligible to apply for a grant. Applications may be submitted either as a competing new grant application or as a competing supplemental application to a current statewide 318(c) project grant awarded for venereal disease control activities.

Approximately $125,000 will be available in Fiscal Year 1985 to make one new grant award. The initial grant will begin January 1, 1985. A 1- to 5-year project period will be established for a new grant; for competing supplemental awards, the budget and project periods will coincide with those of the existing 318(c) grant for STD control activities. Continuation awards covering 12-month project periods will be made on the basis of satisfactory progress in meeting project objectives, compliance with the two CDC documents entitled "STD Prevention/Training Center Curriculum Guidelines and Performance Standards for STD Clinical Training" (P/T Center Guidelines) and "Quality Assurance Guidelines for STD Clinics, 1982" (Clinic QAG), and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Applications submitted for competition must include a description of the following:

1. Evidence that the State/local health department administration is committed to working toward meeting the 1990 Objectives for the Nation, and specifically that 1990 Objective which relates to STD diagnosis and treatment. This requires a willingness to adhere to the Clinic QAG in providing diagnostic and treatment services and the P/T Center Guidelines in the training of health personnel.

2. A description of how the applicant will effectively coordinate P/T Center activities with the basic control components of the local STD program and coordinate both with CDC to assure that the total training environment represents a national model.

3. Evidence of support, experience, and a firm interest in participating, from a local university medical school. This activity requires a significant STD training component within the medical school and a liaison relationship between the faculty members and the local STD/VD program and its clinic(s).

4. Existence of sufficient medical school-health department liaison activities to develop and implement STD curricula in the proposed clinician training program.

5. The geographic location of the proposed P/T Center and its advantage for accessibility by students without competing with existing STD training sites.

6. Possible impact, both positive and negative, that the conduct of the proposed training initiative might have upon the objectives of the established State/local STD control program.

7. A detailed budget and justification of the grant funds requested.

Funds will not be awarded for the purchase of land or buildings or for the construction of a facility. Except where another agency normally houses the public STD clinic, the P/T Center should be located in the health department facility. If a portion of available funds are requested to renovate existing space, the applicant must submit appropriate detailed diagrams, reliable estimates of cost, and a realistic projection of the time required for completion.

Grant applications will be reviewed and evaluated according to the following criteria:

1. Does the applicant convey a satisfactory commitment from the State/local health department administration toward meeting the 1990 Objectives for the Nation, and specifically, that objective related to preparing health providers to adequately diagnose and treat STD, and to conduct such noninvasive STD research that may be feasible and which will not conflict with other program priorities?

2. Does the applicant satisfactorily describe how P/T Center activities will be effectively coordinated with the basic control components of the local STD program and how both will be coordinated with CDC to assure that the total training environment represents a national model?

3. Is the patient volume, the demographic variety of patients, and the morbidity at the proposed P/T Center clinic sufficient to support and stimulate the learning process?

4. Does the applicant adequately assure that STD diagnostic and treatment services will be provided principally in accordance with the Clinic QAG, in particular:

a. Will there be adequate space, staff, and hours of service (including evening sessions) to accommodate patient volume?

b. Will there be a continuity of patient care with no interim daily shutdowns?

c. Will clinic management responsibility be assigned to one person with clinical and/or administrative skills and experience?

d. Will diagnosis and treatment be provided for most STD's and their syndromes (e.g., syphilis, gonorrhea, nongonococcal urethritis, pelvic inflammatory disease, herpes, trichomoniasis, human papilloma virus, scabies, etc.)?

e. Will a nurse clinician or nurse clinician and physician assistant model of care be used?

f. Will an integrated flow be used which minimizes the number of patient stops and the amount of patient waiting time?

g. Will patients be seen, regardless of sex, by the next available clinician?

h. Will confidentiality be observed during both patient registration and patient care service delivery?

i. Will a standardized (e.g., "checkoff") STD medical record be employed?

j. Will there be an on-site laboratory facility which offers a range of available stat tests for commonly seen STD?

k. Will there be a quality assurance procedure through which clinical care is audited systematically and the proficiency of stat laboratory activities are assessed periodically through smear/culture and serologic test correlations?

l. Will CDC diagnostic guidelines be used (e.g., bimanual examinations for women, complete genital examinations for males)?

m. Will the policies and procedures of the STD clinic harmoniously complement the activities of the disease intervention outreach component of the program?

n. Will CDC recommended treatment schedules be used?

4. Does the applicant adequately assure that the development and operation of the clinical training component of the proposed P/T Center will be according to the P/T Center Guidelines, in particular:

a. Will there be adequate training space and assurances that it will be available for all scheduled courses?

b. Will classroom space be adequately furnished and equipped?

c. Will a P/T Center coordinator be identified or provided for through a proposal to create and fill the position?

d. Will a clerical resource be identified to assist the P/T Center coordinator or be provided for through a proposal to create and fill such a position?

e. Will the curricula be developed according to P/T Center Guidelines?

f. Will the clinic and stat laboratory practicum be structured so that participants are provided "hands-on" practice?

g. Will there be an evaluation of participant and medical school teaching faculty performance?

h. Will a minimum of 400 hours of instruction be provided annually which consists of at least six "core" courses (two of which are "Comprehensive"), and two different types of course offerings, as described in the P/T Center Guildelines?

5. Is there a commitment in principle from a local university medical school to participate with the applicant in establishing a P/T Center which addresses:

a. Part-time of a liaison/coordinating person (A physician, preferably a physician in the second or third year of a fellowship), with the expense of instructional services covered by the most cost-effective mechanism possible.

b. The medical school's participation in the development of curriculum governed by the P/T Center Guidelines.

c. A minimum of 400 hours of instruction be provided annually which consists of at least six "core" courses (two of which are "Comprehensive"), and two different types of course offerings, as described in the P/T Center Guidelines.

d. The medical school faculty assistance in clinic practicum through the use of residents or fellows.

e. The medical school's reinforcement of the provisions of the Clinic QAG during curriculum development, instruction, and precepting clinic practicum.

f. The medical school's arrangement for medical students, accompanied by faculty preceptors, to rotate through the P/T Center for training and clinic practicum.

6. Is the site of the proposed P/T Center sufficiently near other Southeastern STD project areas? Convenience should be a factor in attracting clinical training candidates from these localities and accessibility by car should be a reasonable option (since driving has been the common mode of travel used by people throughout Region IV to attend these courses)?

7. Is the location of the proposed P/T Center convenient to restaurants and reasonable hotel/motel accommodations and accessible through a local ground transportation system from an airport?

8. Is there a constructive relationship between the proposed P/T Center and the needs, plans, and objectives of the State/local STD Program?

9. Is there a complementary relationship between the proposal to establish a P/T Center and other types of training which are currently being provided in the locality?

10. Is the budget request clearly explained, adequately justified, reasonable, cost-effective, and consistent with the intended use of grant funds?

In addition, it may be necessary for the Program Services Branch, Division of Sexually Transmitted Diseases, CDC, to conduct a site visit to assess the STD clinic(s), physical alteration plans, and organizational relationships of the proposed P/T Center.

The original and one copy of the application must be submitted to William B. Lyons, Executive Officer, Pubic Health Service, HHS Regional Office, Room 1110, 101 Marietta Tower, Atlanta, Georgia 30323, on or before 4:30 p.m. (e.s.t) on November 15, 1984.

Deadlines. Applications shall be considered as meeting the deadline if they are either:

1. Received at the above address on or before the deadline date, or

2. Sent on or before 4:30 p.m. (e.s.t.) on November 15, 1984 and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications. Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and Regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974.

Information on application procedures, copies of application forms, copies of application guidelines, and other material may be obtained from

William B. Lyons, Executve Officer, Public Health Service, HHS Regional Office, Room 1110, 101 Marietta Tower, Atlanta, Georgia 30323, or by calling (404) 221-5917 or FTS 242-5917. Technical assistance may be obtained from Cheryl A. Blackmore, Division of Sexually Transmitted Diseases, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, Telephone (404) 329-2558 or FTS 236-2558

Dated: September 12, 1984.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 84-24941 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Suldixine Tablets™, Sudine® Tablets, Symbio® Injection; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three new animal drug applications (NADA's), one held by Bayvet Division of Miles Laboratories, Inc., and two held by Beecham Laboratories, Division of Beecham, Inc. The NADA's cover Bayvet's Suldixine™ (sulfadimethoxine) Tablets for treating bacterial infections in dogs and Beecham's Sudine® (sulfadimethoxine) Tablets and Symbio® (sulfadimethoxine) Injection for treating bacterial infections in dogs and cats. The sponsors requested the withdrawal of approval.

EFFECTIVE DATE: October 1, 1984..

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: Bayvet Division of Miles Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, is sponsor of NADA 13-602 for Suldixine™ (sulfadimethoxine) Tablets originally approved on June 13, 1967, for treating bacterial infections in dogs. By letter dated May 10, 1984, Bayvet requested withdrawal of approval of the NADA because the drug is no longer being marketed and waived the opportunity for a hearing.

Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, is sponsor of NADA 13-526 for Sudine® (sulfadimethoxine) Injection for treating bacterial infections in dogs and cats. NADA 13-526 was originally approved on February 1, 1963, and NADA 13-527 was originally approved on July 26, 1963. By letter of June 1, 1984, Beecham requested withdrawal of approval of the NADA's because the drugs are no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 13-602 for Suldixine™ (sulfadimethoxine) Tablets, NADA 13-526 for Sudine® (sulfadimethoxine) Tablets, and NADA 13-527 for Symbio® (sulfadimethoxine) Injection is hereby withdrawn, effective October 1, 1984.

In a final rule published elsewhere in this issue of the Federal Register, FDA is removing those portions of the regulations that reflect these approvals.

Dated: September 7, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-24869 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84P-0277]

Canned Green Beans Deviating From Identify Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Truitt Brothers, Inc., and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than December 19, 1984.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Truitt Brothers, Inc., P.O. Box 309, Salem, OR 97308, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904-2004.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the test product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120 with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test product is to be manufactured at the Truitt Brothers Plant, Salem, OR 97308.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than December 19, 1984.

Dated: September 12, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-24871 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84P-0278]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Lakeside Packing Co. and Continental Can Co.. Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than December 19, 1984.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Lakeside Packing Co., P.O. Box 1127, Manitowoc, WI 54220, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904-2004.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the test product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test product is to be manufactured at the Lakeside Packing Co. Plant, Manitowoc, WI 54220.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than December 19, 1984.

Dated: September 12, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-24872 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-10-M

[Docket No. 84P-0279]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Rogers Walla Walla and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than December 19, 1984.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Rogers Walla Walla, P.O. Box 998, Walla Walla, WA 99362, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904-2004

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonable necessary to retain the green color of the test product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test product is to be manufactured at the Rogers Walla Walla Plant, Milton-Freewater, OR 97862.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than December 19, 1984.

Dated: September 12, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-24873 Filed 9-19-84; 8:45]

BILLING CODE 4160-01-M

[Docket No. 84P-0281]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Friday Canning Corp. and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than December 19, 1984.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Friday Canning Corp., 150 West First St., Box 129, New Richmond, WI 54017, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904-2004.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and

canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the test product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test product is to be manufactured at the Friday Canning Corp. plant, Cambria, WI 53923.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced into interstate commerce, but no later than December 19, 1984.

Dated: September 12, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-24874 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Hill-Burton Program; Medical Facility Construction and Modernization; Federal Right of Recovery and Calculation of Interest Charges

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: On July 18, 1984, the President signed the Deficit Reduction Act of 1984. The law contains several provisions affecting medical facilities which are assisted under the Hill-Burton Program and which transfer ownership or control or cease to be used as medical facility. These provisions include authority to waive the Federal right of recovery and methods of calculating interest when recovery is not waived.

FOR FURTHER INFORMATION CONTACT: Richard R. Ashbaugh, Assistant Surgeon General, Acting Associate Director for Health Facilities, Bureau of Health Maintenance Organization and Resources Development, 5600 Fishers Lane, Room 11-03, Rockville, Maryland 20857, Attention: Lynn Rothberg, 301 443-3466.

SUPPLEMENTARY INFORMATION: Section 2381 of the Deficit Reduction Act of 1984 (Pub. L. 98-369) amended Sections 609 and 1622 of the Public Health Service (PHS) Act (42 U.S.C. 291; 300s-la), the sections relating to recovery of Federal funds from assisted facilities. Generally, these sections provide for recovery of the Federal share whenever there is a change of status in the facility, i.e., a transfer of ownership or control to a proprietary (private profitmaker) or when the use of the facility is changed.

The amendments to sections 609 and 1622 may be summarized as follows:

(1) The transferor of facility must provide written notice to the Secretary of a sale or transfer within 10 days of the sale or transfer;

(2) The owner of a facility, the use of which is changed, must provide written notice to the Secretary within 10 days of the change;

(3) For facilities that take longer than 180 days from the date of the change of status to negotiate a recovery amount, interest will begin to accrue on the eventual recovery amount beginning 180 days after receipt of the notice by the Secretary;

(4) For facilities that fail to notify the Department of Health and Human Services of a change in status (sale, transfer, or change of use) within 10 days of the change, interest will begin to accrue on the date of the change of status; and

(5) Proprietary entities that buy or obtain control of a Hill-Burton facility may be granted a waiver of recovery by the Secretary if the facility establishes an irrevocable trust in accordance with the statute that pays for medical care delivered to persons unable to pay.

Section 609 and 1622 of the PHS Act as amended continue to assert the Government's right of recovery on any facility that changes to ineligible control or use at any time within 20 years after the completion of construction. The most common cause for recovery has been sale or lease to an entity not originally eligible to have received Hill-Burton assistance, most commonly proprietary or investor-owned entities. Section 609 and 1622 also provide a general basis for calculating recovery claims, and provide for waiver of recovery if the Secretary determines there is good cause for other use of the facility.

Public Law 98-369 applies to Hill-Burton facilities as of July 18, 1984, the date of enactment of the law. Consequently, interest charges as specified in the law will be applied to recovery actions that are pending after that date. In the case of facilities which changed status before the date of enactment, interest would not begin to accrue until 30 days after enactment; but in no case earlier than 180 days from the date of the change of status regardless of when the facility notified the Secretary of the change.

The amendments to sections 609 and 1622 of the PHS Act now allow the Secretary the option of waiving recovery in situations where recovery was previously required. Accordingly, for a buyer to be eligible for a waiver of recovery, an irrevocable trust must be established to pay for care provided to those unable to pay. The buyer must establish this trust in an amount equal to the greater of (a) twice the amount of the remaining Hill-Burton uncompensated care obligation, or (b) the amount that would have been due under recovery. In addition to establishing a trust and complying with the Hill-Burton uncompensated services regulations, the new owner must also agree to comply with the Hill-Burton community service regulations (42 CFR Part 124, Subpart G).

The law requires that regulations be developed and published to implement the waiver option. This option will not be available to any facility that has entered into a recovery agreement.

In addition to the provisions described above, the amendments also require that the Secretary conduct a study to determine whether the Hill-Burton uncompensated services regulations should distinguish between hospitals and long-term care facilities assisted under Titles VI and XVI of the PHS Act.

Recovery provisions of section 609 also apply to those grant program projects which operated in conjunction with Hill-Burton, providing health facility construction grants approved under the signature authority of the Secretary (HHS/HEW). Section 609 is applicable to those projects aided either solely by the Hill-Burton program and/or one of the following programs: Public Works Acceleration Act of 1962, Pub. L. 87-658 (42 U.S.C. 2641 et seq.); District of Columbia Medical Facilities Construction Act of 1968, 82 Stat. 631 (Pub. L. 90-457); and Appalachian Regional Development Act of 1965, as amended (40 U.S.C. App.).

In addition, the following Federal grant programs are subject to the provisions of section 609 if the funds from the program provided supplementary assistance to Hill-Burton projects: Public Works and Economic Development Act of 1965 (42 U.S.C. 3121, et seq.); and Local Public Works Capital Development and Investment Act of 1976 (Pub. L. 94-369).

Dated: September 10, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-24867 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

Blood Diseases and Resources Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, October 29-30, 1984, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The Committee will meet in Building 31, Conference Room 8, C Wing.

The entire meeting will be open to the public from 9:00 AM to 5:00 PM on October 29, and from 8:30 AM to adjournment on October 30, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 5A-08, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-1817, will furnish substantitve program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 12, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-24910 Filed 9-19-84; 8:45 am]

BILLING CODE 4140-01-M

Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, October 29-30, 1984, Conference Room 3, 1st Floor, A-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. on Monday, October 29, and from 8:30 a.m. to adjournment on Tuesday, October 30, to evaluate program support in Arteriosclerosis, Hypertension and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Bellicha, Chief, Public Inquiry and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension and Lipid Metabolism Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: September 12, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-24911 Filed 9-19-84; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (47 FR 38409-24, August 31, 1982, as amended at 48 FR 54533, December 5, 1983), is amended to reflect the transfer of the health facilities construction activities under Titles VII and VIII from the Division of Facilities Financing to the Division of Facilities Conversion and Utilization in the Office of the Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development.

Under Section HB-10. Organization and Functions, make the following amendments:

1. In the statement for the Division of Facilities Financing, delete item number (4) and renumber (5) thru (8) to (4) thru (7) respectively.

2. In the statement for the Division of Facilities Conversion and Utilization, delete the "and" before item number (11), change the period at the end of item number (11) to a semicolon, and add the following after item (11):

"and (12) in close coordination with the Bureau of Health Professions, HRSA, develops regulations, policies, and procedures for administering and monitoring health professions educational and nurse training facilities construction grant or loan programs."

Dated: August 10, 1984.

Robert Graham, M.D.,

Administrator, Health Resources and Services Administration.

[FR Doc. 84-24949 Filed 9-19-84; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-84-1451]

Advisory Committee on Contract Document Reform: Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The eighth meeting of the Committee on Contract Document Reform has been scheduled for Tuesday, September 25, 1984 at 9:30 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

The purpose of the meeting is to discuss and analyze suggested amendments to contract document clauses.

This meeting is open to the public. Any interested persons may attend, appear before, or file statments with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Peter Tropp, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone: (202) 755-5561 (This is not a toll-free number).

Dated: September 17, 1984.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84-24975 Filed 9-19-84; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. N-84-1448]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatment of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Requisition of Funds, Requisition for Partial Annual Contributions (HAPP)
Office: Housing
Form number: HUD-52663
Frequency of submission: On Occasion
Affected public: State or Local Governments
Estimated burden hours: 13,112
Status: Revision
Contact: Myra Newbill, HUD, (202) 755-5720;
Robert Neal, OMB, (202) 395-7316

Proposal: Inspection Form: Section 8 Existing Housing Program
Office: Housing
Form number: HUD-52580
Frequency of submission: Annually
Affected public: State or Local Governments
Estimated burden hours: 400,000
Status: Revision
Contact: Gerald Benoit, HUD, (202) 755-5433;
Robert Neal, OMB, (202) 395-7316

Proposal: Section 8 Housing Assistance Payments Program—Report on Program Utilization—Existing Housing
Office: Housing
Form number: HUD-52683/52684
Frequency of submission: Quarterly
Affected public: State or Local Governments
Estimated burden hours: 16,000
Status: Revision
Contact: Myra Newbill, HUD, (202) 755-5720;
Robert Neal, OMB, (202) 395-7316

Proposal: Monthly Digest of Current Housing Situation—Quarterly Supplement
Office: Housing
Form number: HUD-2499 and 2499-A
Frequency of submission: Monthly and Quarterly
Affected public: Businesses or Other For-Profit
Estimated burden hours: 800
Status: Extension
Contact: John N. Dickie, HUD, (202) 755-7272;
Robert Neal, OMB, (202) 395-7316

Proposal: Voucher for Payment of Annual Contributions, HAPP (Housing Assistance Payments Program), and Operating Statement
Office: Housing
Form number: HUD-52681/52682
Frequency of submission: On Occasion
Affected public: State and Local Governments
Estimated burden hours: 19,558
Status: Revision
Contact: Myra Newbill, HUD, (202) 755-5720;
Robert Neal, OMB, (202) 395-7316

Proposal: Certification/Recertification of Tenant Eligibility and Worksheets for Computing Gross/Net Family Contribution
Office: Housing
Form number: HUD-50059, 50059 a, b, c, d, e, f, and g; and 50059 REF a, b, c, d, and f.
Frequency of submission: Annually
Affected public: Individuals or Households and Businesses or other For-Profit
Estimated burden hours: 2,96,333
Status: Revision
Contact: Judy Lemeshewsky, HUD, (202) 755-6870;
Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dennis F. Geer,
Director, Office of Information Policies and Systems.

[FR Doc. 84-24858 Filed 9-19-84; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N-84-1447]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the

office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Existing Housing Assistance Payments Program—Application for Existing Housing
Office: Housing
Form number: HUD-52515
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated burden hours: 6,000
Status: Revision
Contact: Myra Newbill, HUD, (202) 755-7707;
Robert Neal, OMB, (202) 395-7316.

Proposal: Section 8 Existing Housing Allowances for Tenant Furnished Utilities and Other Services
Office: Housing
Form number: HUD-52667
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated burden hours: 14,000
Status: Revision
Contact: Gail Williamson, HUD, (202) 755-6596;
Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 30, 1984.

Dennis F. Gear,
Director, Office of Information Policies and Systems

[FR Doc. 84-24859 Filed 9-19-84; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N-84-1446]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Mortgage Insurance—Single Family Claims Without Conveyance of Title
Office: Housing
Form number: None
Frequency of submission: On Occasion
Affected public: Business or other for-profit
Estimated burden hours: 31,000
Status: Revision
Contact: Sally McCormick, HUD, (202) 755-6672;
Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 27, 1984.

Dennis F. Geer,
Director,
Office of Information Policies and Systems.

[FR Doc. 84-24860 Filed 9-19-84; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N-84-1445]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the

office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Community Development Block Grant States Program
Office: Community Planning and Development
Form Number: None
Frequency of submission: Annually
Affected public: State or Local Governments
Estimated burden hours: 26,400
Status: Revision
Contact: Bryant Monroe, HUD, (202) 755-6322;
Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 21, 1984.

Dennis F. Geer,

Director Office of Information Policies and Systems.

[FR Doc. 84-24661 Filed 9-19-84; 8:45 am]
BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-84-1449; FR-1987]

Announcement of the Local Property Urban Homesteading Demonstration Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of solicitation for applications to participate in the Local Property Urban Homesteading Demonstration Program.

SUMMARY: HUD is soliciting applications from States and units of general local government to participate in a Local Property Urban Homesteading Demonstration Program. This Demonstration will encourage States and units of general local government to develop effective programs to use unoccupied, one- to four-family housing units that are in the process of public lien foreclosure (not necessarily meaning that the legal proceedings have commenced) by providing Section 810 funds for the acquisition of these local properties which are suitable for an urban homesteading program, as authorized by the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181). Approved applicants (recipients) will be expected to provide program administration, interim property management, assurance of rehabilitation financing, and homeowner training and technical assistance.

DATE: Proposal due date: An application to participate in the Local Property Urban Homesteading Demonstration Program must be received by HUD or postmarked by 5:00 p.m. on October 22, 1984.

ADDRESSES: HUD requests two copies of the applications. One copy shall be sent to the HUD Field Office having jurisdiction over the applicant, attention Director, Community Planning and Development, and the other copy shall be sent to HUD Headquarters, listed below:

FOR FURTHER INFORMATION CONTACT: Richard R. Burk, Director, Urban Homesteading Program, or Lou Thompson, Room 7168, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington D.C. 20410, telephone (202) 755-5324. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

Section 810 of the Housing and Community Development Act of 1974 authorizes the HUD Urban Homesteading Program under which States and units of general local government acquire HUD-owned, unoccupied, unrepaired single family properties for no consideration. The States and local governments transfer the properties for a nominal consideration to individuals and families conditioned on their being rehabilitated and occupied as a principal residence for a period of three years (now five years). Subsequent amendments to Section 810 expanded the program to include the transfer of single family properties owned by the Secretary of Agriculture and the Administrator of Veterans Affairs. For these Federally-owned properties, funds appropriated for the Section 810 Urban Homesteading Program are used by HUD to reimburse the applicable Federal agency's housing loan fund for the value of the property transferred.

The Section 810 amendments contained in the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, Sec. 122) focused the priority of the Urban Homesteading Program toward providing homeownership opportunities for those individuals and families most in need of housing. They also give homesteaders three years to rehabilitate the property in order to let homesteaders use sweat equity in lieu of more expensive contract labor to do the needed rehabilitation work. The occupancy requirement was extended from three to five years. Additionally, the 1983 amendments authorized HUD to undertake a Local Property Urban Homesteading Demonstration Program under a new Section 810(i).

HUD is statutorily mandated to give a preference to demonstrations "involving the acquisition of properties that become available in satisfaction of public liens such as tax liens" (Section 810(i)(2)). To implement this provision for the demonstration, HUD will select only those applicants whose program designs limit acquisition to these properties. (See paragraph 2 of the "Program Requirements" section of this Notice.)

Purpose of Demonstration

Property abandonment is a serious problem for cities. It causes rapid decline of neighborhoods, decreases the local tax base, lowers property values, and increases costs (both public and private) to implement corrective measures. States and localities need to think more broadly about their abandonment problems and to develop strategies to reduce abandonment. The Local Property Urban Homesteading Demonstration Program is another mechanism that recipients may use to assist in their anti-abandonment efforts.

The purpose of the Local Property Urban Homesteading Demonstration Program is to test the feasibility of recipients (States and units of general local government) acquiring for homesteading use properties that are in the process of tax foreclosure. Recipients are encouraged to develop ways to acquire the properties prior to completion of the foreclosure process. In this regard, the Department is concerned

that the often lengthy public lien foreclosure process may contribute to greater deterioration and abandonment of local properties than is necessary. While the Department recognizes that the public lien foreclosure procedures are designed to protect property owners from immediate loss of their properties and therefore their investments, the slowness of the process may create incentives for owners to disinvest and drain their properties of any or all economic value before they can become available for acquisition and future re-use by another owner.

The Department encourages recipients to select properties that are in the early stages of foreclosure, so that little deterioration has occurred and the rehabilitation costs will be affordable to homesteaders. This can be done through direct negotiation with the owner at any time during the foreclosure process. With respect to specific property eligibility requirements, see paragraph 2 under "Program Requirements."

Program Requirements

1. Eligible Applicants

Any State or unit of general local government as defined in 24 CFR Part 590 may apply to participate in the Local Property Urban Homesteading Demonstration Program. Preference will be given to applicants that submit innovative proposals meeting the purpose of the demonstration. Applicants need not have an existing urban homsteading program; however, those with existing homesteading programs may find it easier to develop applications because of their experience with the various legal and administrative problems involved and because of their already existing capacity to supervise and manage homesteading activities.

2. Eligible Properties

Any one- to four-family residence that is (a) "in the process of tax foreclosure," (b) not occupied by a person legally entitled to reside there, (c) in need of repair, and (d) designated by the recipient for use in a local property urban homesteading program, may be acquired using Section 810 funds (and any other available funds that the recipient may provide for acquisition). The recipient, or its agency designated to carry out the demonstration, must acquire unencumbered, fee simple title to the property, so that it is able to convey such title to the homesteader upon completion of the 5-year homesteading period and the other obligations of the homesteader agreement. (See paragraph 6.g. below.)

For the purpose of this demonstration, property "in the process of tax foreclosure" means property (a) for which taxes are delinquent and constitute a lien on the property, and (b) which is substantially within the tax foreclosure process, although not necessarily subject to judicial foreclosure proceedings. Since it is not possible in this Notice to specify a definition which would work in each community, each applicant shall submit its own proposed definition for HUD approval. Each applicant should review applicable laws and in its application propose an appropriate minimum level of involvement in the tax foreclosure process suitable for both the demonstration and local procedures and circumstances.

3. Eligible Costs

No local program administrative costs or costs of property rehabilitation may be paid with Section 810 funds. Costs payable from Section 810 funds are limited to the following:

(a) The actual cost of acquisition of unencumbered title to the property, which shall not exceed the greater of either the appraised as-is value of the property or the amount of the tax lien; however, in no case shall the cost of acquisition exceed $15,000 for a one-unit family residence and an additional $5,000 for each additional unit of two- to four-family residences.

"Appraised as-is value of the property" is defined as the fair market value of the property in its existing condition prior to acquisition, without the projected rehabilitation or improvements in the target neighborhood as determined by a qualified appraiser.

(b) Other reasonable costs related to property acquisition and closing that are customary charges paid by a purchaser of real property for the jurisdiction; for example, closing fees, acceptable title evidence, title policy, legal fees. These related costs may be added to the otherwise eligible amounts under paragraph (a).

4. Eligible Homesteaders

Homesteaders shall be "lower income families" as defined in Section 3(b)(2) of the United States Housing Act of 1937, which includes single person households. Generally, this means that the family's annual income does not exceed 80% of the median income for the area, adjusted for family size as determined by the Secretary. For the Demonstration, the family's annual income, permissible adjustments to income, and the median income for the area shall be determined in accordance with the requirements for the Section 8 Program in 24 CFR Part 813.

5. Resources Provided by HUD

HUD will set aside up to $1,000,000 of the amount appropriated under Urban Homesteading for each of Fiscal Years 1984 and 1985 for States and units of general local government to purchase one- to four-family residential properties, suitable for a local property urban homesteading program meeting the standards of this Notice. The cost of evaluating this demonstration is included in the set aside amount.

6. Local Property Demonstration Program Design

Each applicant has flexibility to design its program to meet local needs within the parameters of the demonstration. However, all program designs must contain the following:

a. *Property Selection:* (1) Properties must be in such condition that a lower income family can afford to make repairs and operate the property.

(2) No property may be selected which at the time of purchase is occupied by a person legally entitled to reside there, in order to avoid displacement of property owners and tenants.

(3) Recipients shall select properties that are in the process of tax foreclosure, as described in paragraph 2, Eligible Properties. Recipients shall describe their method for selecting eligible properties and identify the stage(s) in the process of tax foreclosure at which properties will be acquired.

(4) Recipients shall assist HUD in the environmental review process under 24 CFR Part 50, to the extent applicable. Before any specific property is acquired, the recipient shall submit to HUD a draft environmental review prepared in accord with Subpart E and Section 58.40, 24 CFR 58, which is the equivalent of 24 CFR Part 50 (relevant sections).

The recipient's environmental review should address acquisition and any expected rehabilitation activity. However, the recipient may report activities as categorically excluded under 24 CFR 58.35 and those which it finds do not trigger requirements under the authorities listed at 24 CFR 58.35. The review should include an assessment for activities, if any, not categorically excluded, and state the nature of activities, if any, that trigger one or more of the related authorities. The resulting review is to be transmitted to HUD, which will complete the final review, including public notice or consultation requirements, if any. HUD will notify the recipient of its review and any conditions. In preparing its review

documents, the recipient may prepare a single review for each program property or a combined review covering all program properties in the same neighborhood, area or jurisdiction.

b. *Area Selection:* Recipients shall designate defined target areas where abandonment is taking place, and any other urban homesteading and community development activities which will complement the efforts of this demonstration.

c. *Rehabilitation Financing:* The recipient shall develop procedures to undertake, or to assist the homesteader in arranging financing for, the rehabilitation required under the homesteader agreement.

d. *Homesteader Selection:* All homesteaders shall be lower income individuals or families, as described in paragraph 4 above. The program shall provide equitable procedurs for selecting homesteaders which:

(1) Exclude those who own other residential property, except as otherwise approved by HUD on a case-by-case basis in writing where hardship would result; and

(2) Take into account the prospective homesteader's capacity to make or cause to be made the repairs and improvements required under the homesteader agreement (see Rehabilitation Standards below).

(3) In selecting homesteaders, recipients shall:

(a) Comply with the requirements of Title VI of the Civil Rights Act of 1964; Executive Order 11063; Title VIII of the Civil Rights Act of 1968; section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975 which prohibit discrimination on the basis of sex, race, religion, color, national origin, handicap, or age in any program or activity under this demonstration; and

(b) Employ affirmative marketing procedures in the advertising of homesteading properties. In order to provide all persons an opportunity to participate in the Urban Homesteading Program, the recipient shall advertise and use media, including minority outlets, that will reach persons least likely to apply for participation.

e. *Rehabilitation Standards:* (1) All properties shall be rehabilitated to repair all defects in the property that pose a substantial danger to health or safety within one year of the date of initial conveyance to the homesteader, and to meet applicable local standards for decent, safe, and sanitary housing within three years after the date of initial conveyance to the homesteader. Recipients are encouraged to experiment with amending property or code standards, changing material specifications, streamlining processing and inspections, limiting fees, and taking other actions to reduce costs.

(2) All rehabilitation activity on properties acquired under this demonstration shall comply with the Lead-Based Poising Act (42 (U.S.C. 4801, et seq.) and the HUD Lead-Based Paint Regulations, 24 CFR Part 35 to:

(i) Assure the elimination of the immediate lead-based paint hazards; and

(ii) Notify potential homesteaders of the hazards of lead-based paint poisoning in residential units constructed before 1950.

(3) Rehabilitation activity that meets the definition of "substantial improvement" in the National Flood Insurance Program regulations at 44 CFR 59.1 must meet the floodproofing standards of the National Flood Insurance Program if the property is located in a designated Flood Hazard Area.

(4) Rehabilitation activity that affects property included in or eligible for the National Register of Historic Places must be planned in accord with the Secretary of the Interior's *Standards for Rehabilitation*; and the State Historic Preservation Officer must be given an opportunity to comment on work affecting such historic property.

(5) All rehabilitation activity must comply with any energy conservation measures designated by the recipient as part of the repairs;

f. *Conditional Conveyance:* The recipient shall provide for the conditional conveyance of properties to homesteaders without any substantial consideration. The Department interprets "without any substantial consideration" to be $1 or the lowest amount required by State law to support a valid conveyance.

g. *Homesteader Agreement:* The recipient must provide for the execution, concurrently with or as a part of the conditional conveyance, of a Homesteader Agreement between the recipient and the homesteader which shall require the homesteader to:

(1) Repair all defects that pose a substantial danger to health and safety within one year from the date of initial conveyance of the property to the homesteader;

(2) Make or cause to be made additional repairs and improvements necessary to meet the applicable local standards for decent, safe, and sanitary housing within 3 years from the date of initial conveyance of the property to the homesteader and to comply with any energy conservation measures designated by the recipient as part of the repairs;

(3) Occupy the property as principal residence for not less than five consecutive years from the initial date of occupancy except as otherwise approved by HUD on a case-by-case basis under emergency conditions making compliance with this requirement infeasible;

(4) Permit inspections at reasonable times by employees or designated agents of the recipient to determine compliance with the agreement;

(5) Surrender possession of, and any interest in, the property upon material breach of the Homesteader Agreement (including default on any rehabilitation financing secured by the property as determined by the recipient in accordance with this Notice).

h. *Fee Simple Title:* The program shall provide for the conveyance of fee simple title to the property from the recipient to the homesteader without consideration upon compliance with the terms of the conditional conveyance and the homesteader agreement.

i. *Self-Help and Sweat Equity:* HUD encourages recipients to permit self-help and sweat equity in connection with the demonstration. The recipient shall identify the degree to which self-help and sweat equity are permitted in its program. Although the terms self-help and sweat equity are frequently used interchangeably, self-help is the more general term. Sweat equity projects normally involve homesteader participation in the physical rehabilitation and construction work itself, while self-help may take other forms: participating in planning, designing, decision making, or management, for example.

j. *Homesteader Training/Technical Assistance:* Participating recipients shall provide training and technical assistance when appropriate for homesteaders performing sweat equity and self-help. Additional training and technical assistance are encouraged for long-term home maintenance and management.

k. *Citizen Participation:* Recipients shall offer to meet with or invite written comments from community and neighborhood groups in connection with developing the application.

l. *Interim Liability:* By accepting title to a property for homesteading, the recipient shall assume liability for injury or damage to persons or property by reason of defect in the dwelling, its equipment or appurtenances, or for any other reason related to ownership of the property.

7. Application Requirements for Demonstration

a. Applicants interested in participating in the Local Property Demonstration Program must submit an application (Standard Form 424) to the HUD Field Office having jurisdication no later than 30 days from the effective date of this Notice. (See Proposal Due Date, above.) The application shall include in 20 pages or less the following:

(1) A description of the program design in Item 6.

(2) A description of how the applicant's participation in the Demonstration will complement any other anti-abandonment strategies that it already has.

(3) An estimate of the amount of Section 810 funds required to acquire properties, and an estimate of the number of properties and dwelling units the applicant expects to obtain during the Demonstration. In the case of recipients with existing local urban homesteading programs, the number of local properties identified must be in addition to the average number of local properties conveyed under the existing program during the previous three years.

(4) A description of the financing mechanisms proposed to assist homesteaders.

(5) A description of any local resources for acquisition, rehabilitation, homesteading implementation, training and technical assistance.

(6) A management and work plan with schedules for implementing all program tasks.

(7) A map of the applicant's jurisdiction designating target areas.

(8) Designation of the public agency responsible for implementing the demonstration, including its administrative, managerial, and legal relationship to the applicant, and a description of its experience in acquisition/rehabilitation/homesteading/training and technical assistance, or a similar program that is providing or assisting homeownership for lower income persons.

(9) Certifications: The applicant shall certify that:

(a) Submission of the application is authorized under State and local law) as applicable) and the applicant, or its designated agency, possesses the legal authority to carry out the Local Property Urban Homesteading Demonstration in accordance with this Notice; and

(b) The applicant will conduct and administer its local property urban homesteading program and, if applicable, ensure that its designated public agency conducts and administers its program in accordance with the requirements of this Notice.

(10) A definition of property in the process of tax foreclosure applicable to the jurisdiction. This involves reviewing applicable laws and defining a minimum point in the tax foreclosure process wherein the applicant will become involved in acquiring a property. (See paragraph 2, Eligible Properties.)

(11) Any additional documentation HUD requests.

8. Application Review and Approval Procedures

The application review will be conducted by HUD Field Office staff and Headquarters staff. The overall quality of each design will be the predominant factor in our selection process. In evaluating designs of equal quality, we will attempt to maximize variation and thereby improve the scope of information from the Demonstration. This will permit HUD to formulate policy providing the most assistance to other States and units of general local government with similar problems.

a. Applications will be reviewed by HUD Field Office staff, and the Manager will make recommendations to the Assistant Secretary for Community Planning and Development, through the Regional Administrator, within 20 calendar days of the original due date of the application.

The Field Office evaluation shall consider:

(1) The feasibility of the program design and the probable ability of the applicant to immediately implement and successfully carry it out on schedule, given the resources available.

(2) The relevance of the applicant's stated experience with homesteading or other similar programs that provided homeownership opportunities for lower income persons.

(3) The supply of properties not occupied by a person legally entitled to reside there that are in the process of tax foreclosure and that meet the other property selection criteria (see paragraph 6(a) above).

(4) The soundness of the Section 810 funding request and the applicant's statement of any other resources for acquisition, rehabilitation financing, training, etc.

(5) The previous experience of the Field Office with the applicant in Community Development, Housing, and Fair Housing and Equal Opportunity matters;

(6) The overall judgment of the Field Office on whether and how well the proposed program will achieve the purpose of the demonstration.

b. The Assistant Secretary for CPD will review the Field Office recommendations and make final selections of recipients within 15 days of the Field Office submissions. Preference will be given to applications in which the applicant (in the case of a State application, the localities) will forgive all or part of the taxes owed as part of its contribution to the demonstration. Approximately 5 applicants will be selected.

c. Within 30 days after the announcement of the recipients, HUD will reserve Section 810 funds for the recipient and execute and transmit to the recipient a Local Property Urban Homesteading Agreement in the form prescribed by HUD. This agreement will then be executed by the State or unit of general local government, and the designated independent public agency, if any, and returned to HUD.

d. Recipients shall begin acquiring properties for his demonstration within 45 days from the date HUD obligates funds (see paragraph e. below). All acquisition shall be completed within two years after the date of obligation. Transfers of properties from the recipient to homesteaders shall occur within 90 days from acquisition by the recipient of unencumbered title, except where a longer period is approved by HUD.

e. Upon receipt of an executed agreement by HUD's Accounting Division, Section 810 funds will be obligated for the recipient in the amount specified in the agreement. This is the maximum amount that will be available to the locality to acquire properties. A letter of credit will be issued for the amount obligated. To acquire properties, the recipient may draw down on its letters of credit in amounts that exceed $5,000, for payment of eligible costs as described in paragraph 3 of the "Program Requirements" portion of this Notice.

9. Local Property Urban Homesteading Agreement

The homesteading agreement will be executed by HUD and the recipient, and any designated independent public agency, prior to any obligation of Section 810 funds. The homesteading agreement shall provide for remedial actions for violation of the conditions of the Demonstrations, including reimbursement to HUD, where appropriate.

10. Monitoring and Reporting and Amendments

a. HUD staff will monitor each recipient's progress. Each recipient shall

report quarterly on its problems and experiences in a format prescribed by HUD. HUD will require approval of changes in the program designs previously approved, to the extent specified in the Local Property Urban Homesteading Agreement.

b. As required by Congress, HUD will evaluate the demonstration. Participating States and units of general local government shall cooperate with HUD by providing needed information and by facilitating HUD's access to the homesteaders, and the to the recipients' financial records.

c. HUD will report to Congress on the results of the demonstration program by December 31, 1985.

11. Waiver Authority

HUD may waive any requirement of this Notice not required by law whenever it determines that undue hardship would result from applying the requirement or where applying the requirement would adversely affect achievement of the purpose of the demonstration.

12. Retention of Records

The recipient shall maintain adequate financial records, property closing documents, supporting documents, statistical records, and all other records pertinent to the local property urban homesteading demonstration for one year after conveyance of fee simple title to the homesteader.

13. Audit

a. *Access to records.* The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, accounts, records, reports, files, and other papers or property of the recipient pertaining to funds or property transferred under this Notice, for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

b. *Audit.* The recipient's financial management system shall provide for audits in accordance with audit guidelines prescribed by Office of Management and Budget (OMB) Circular A-102, Attachment P—Audit Requirements.

Other Matters

Pursuant to the provisions of 5 U.S.C. Section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this Notice does not have a significant economic impact on a substantial number of small entities because of the low funding level of the demonstration and the anticipated selection of only 5 entities.

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

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

This Notice does not significantly affect the environment. A Finding of No Significant Impact respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures (24 CFR Part 50). A copy of this Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at Room 10278, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410-7000.

The Catalogue of Federal Domestic Assistance program number and title are 14.222, Urban Homesteading.

Authority: Section 810(i) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: September 13, 1984.

Jacks R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 84-24863 Filed 9-19-84; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. N-84-1450; FR-2021]

Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice sets the deadline dates for filing applications for funds from the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages for Fiscal Year 1985. Applications are required in order to provide HUD with the information necessary to rate the proposed project(s) and to assure HUD that the necessary citizen participation has taken place.

FOR FURTHER INFORMATION CONTACT: Ms. Marcia A.B. Brown, Office of Program Policy Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410, (202) 755-6092. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This notice sets the deadline dates for submitting applications for the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages. These dates apply only to applications submitted by Indian Tribes and Alaskan Native Villages for Fiscal Year 1985.

The field responsibility for the administration of the program is divided among the following offices: Region V Office of Indian Programs (OIP) in Chicago, responsible for all HUD Indian program activities within Region I-V, plus the State of Iowa; Oklahoma City Office, responsible for all HUD Indian program activities in the States of Arkansas, Texas, Oklahoma, Kansas, Louisiana and Missouri; Region VIII OIP in Denver, responsible for all HUD Indian program activities in Region VIII, plus the State of Nebraska; Region IX OIP in Phoenix, responsible for all HUD Indian program activities in Region IX, plus the State of New Mexico; Region X OIP in Seattle, responsible for all HUD Indian program activities in Region X with the exception of the State of Alaska; and the Anchorage Office, responsible for all HUD Indian and Alaskan Native program activities in the State of Alaska.

As of the publication date of this notice, applications will be accepted by HUD.

Final Dates for Submission

Offices	No later than—[1]
Region V, OIP	Jan. 11, 1985.
Oklahoma City Office	Dec. 7, 1984.
Region VIII, OIP	Mar. 15, 1985.
Region IX, OIP	Feb. 15, 1985.
Region X, OIP	Dec. 17, 1984.
Anchorage Office	Jan. 28, 1985.

[1] Applications must be received or postmarked no later than the date specified. Applications received or postmarked after the deadline will not be considered.

Tribes and Villages submitting applications for this program must do so on HUD forms approved by the Office of Management and Budget under OMB Control Number 2506-0043. These forms request information which is necessary to rate the proposed project(s) and which assures HUD that the necessary citizen participation has taken place. Forms will be provided by the appropriate HUD Field Offices.

(Catalog of Federal Domestic Assistance number is 14.223)

(Sec. 107, of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); Sec. 7(d), of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: September 13, 1984.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 84-24862 Filed 9-19-84; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-35082]

Conveyance of Public Lands; Order Providing for Opening of Lands, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 139,760.26 acres of public lands out of Federal ownership. This action will also open 139,009.37 acres of reconveyed lands to surface entry.

EFFECTIVE DATE: October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. (Telephone 503-231-6905), Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that in an exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 139,760.26 acres of lands in Harney, Lake, and Malheur Counties, Oregon, from Federal to State ownership with a reservation of all minerals to the United States.

2. In the exchange, the lands described in the State of Oregon Deed dated April 30, 1984, have been reconveyed to the United States. The deed has been recorded in the Harney County Courthouse on May 7, 1984, in book 120, page 705. The lands contained in the deed aggregate 139,009.37 acres (130,159.99 acres in Harney County, 3,720 acres in Lake County, and 5,129.38 acres in Malheur County).

3. The mineral estate in the following described lands is already in United States ownership and remains open to operation of the United States mining laws and mineral leasing laws:

Willamette Meridian

T. 30 S., R. 32 E.,
Sec. 34, SE¼NE¼ and E½SE¼;
Sec. 35, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 36, E½, E½NW¼, and SW¼.
T. 31 S., R. 33 E.,
Sec. 18, SE¼;
Sec. 19, NE¼NE¼;
Sec. 20, W½NE¼, SE¼NE¼, NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼.
T. 30½ S., R. 34 E.,
Sec. 28, SW½ and W½SE¼;
Sec. 29, SE¼;
Sec. 32, N½NE¼;
Sec. 33, NW¼NE¼, N½NW¼, and SW¼NW¼.
T. 22 S., R. 35 E.,
Sec. 15, S½;
Sec. 20, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 21;
Sec. 22, W½;
Sec. 27, N½NW¼ and SW¼NW¼;
Sec. 28, N½NE¼, SE¼NE¼, and SE¼SW¼;
Sec. 29, NW¼NE¼ and N½NW¼.
T. 23 S., R. 37 E.,
Sec. 31, lots 1, 2, and 3, E½, and E½W½.
T. 24 S, R. 37 E.,
Sec. 6, lot 1.
The areas described aggregate 4,729.38 acres in Harney and Malheur Counties, Oregon.

4. The mineral estate in the reconveyed lands, except as provided in paragraph 3, was not reconveyed to the United States and remains out of Federal ownership.

5. At 8:30 a.m., on October 29, 1984, the reconveyed lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on October 29, 1984, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Dated: September 11, 1984.

L.D. Morrison,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-24850 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-33-M

[U-47396]

Notice of Realty Action Sale of Public Lands in Washington County, UT

AGENCY: Bureau of Land Mangement, Interior.

ACTION: It is proposed to sell 40 acres of public land under the authority of Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713). The land is described as the NW¼SE¼ of Section 17, Township 42 South, Range 16 West, SLBM. Method of sale will be by sealed bids subject to a preference consideration to allow Norman Gubler and Emil Gubler Estate to meet the high bid. Minimum acceptable bid will be $40,000.

The sale will be held at 2:00 p.m. on November 30, 1984, at the BLM Dixie Resource Area Office, 225 North Bluff, St. George, Utah.

SUMMARY: The land has been identified for disposal by the Management Framework Plan for the Virgin River Planning Unit and the Land Report prepared for the Dixie Withdrawal Revocation. There are no significant or critical resource values present. It has been determined to meet disposal criteria of the Federal Land Policy and Management Act, Section 203(a)(1) in that it is difficult and not economical to manage.

The tract contains improvements consisting of a sprinkler system and agricultural development authorized under a previous Bureau of Reclamation agricultural lease.

DATE: Comments should be submitted within 45 days from the date of this notice.

ADDRESS: Comments should be sent to: Area Manager, Dixie Resource Area Office, Bureau of Land Management, 225 North Bluff, P.O. Box 726, St. George, Utah 84770. Detailed information concerning the sale and bidding procedure is available at the Dixie Resource Area Office.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for surface estate only.

2. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of

the United States, Act of August 30, 1980 (43 U.S.C. 945).

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any action by the District Manager, this notice will become the final determination of the Department of the Interior.

Dated: September 14, 1984.

Morgan S. Jensen,

District Manager.

[FR Doc. 84-24948 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-DQ-M

[ORE-016183B, ORE-016183D]

Oregon; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a land withdrawal for recreation sites in the Roseburg and Medford Districts continue for an additional 20 years. The lands would remain closed to surface entry and mining but have been and would remain open to mineral leasing.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

The Bureau of Land Management proposes that the existing land withdrawal made by Public Land Order No. 3869 of November 12, 1965, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved total 1,451.23 acres within Douglas, Jackson, Josephine, and Klamath Counties, Oregon.

The purpose of the withdrawal is to protect 17 separate recreation sites within the Roseburg and Medford Districts. The withdrawal segregates the land(s) from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: September 13, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-25042 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-33-M

Oregon: Wild Horse Gathering Schedule Meeting Notice

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Burns District Office: Statewide Wild Horse Gathering Schedule Public Meeting.

SUMMARY: In accordance with Pub. L. 92-195, this notice sets forth the public meeting date to discuss the use of helicopters in gathering wild horses and the proposed gathering schedule in Oregon for FY 85 and 86.

DATE: October 3, 1984—9:00 A.M. to 11:00 A.M.

ADDRESS: The meeting will take place at the Harney County Courthouse in Burns, Oregon.

FOR FURTHER INFORMATION CONTACT: Joshua L. Warburton, District Manager, Burns District, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720—Telephone (503) 573-5241.

SUPPLEMENTARY INFORMATION: The use of helicopters to gather wild horses throughout southeastern Oregon in Fiscal Year 1985 and 1986 will be discussed along with other aspects of gathering and the adoption process.

The gathering schedule listed below is subject to change depending on the availability of funds and the capability of the Burns District to process and adopt out the horses gathered.

GATHERING SCHEDULE FOR FISCAL YEARS 1985 AND 1986

Fiscal year and herd area		Estimate No. to gather
1985	Sheepheads/Heath Creek [1]	450
1985	Riddle Mountain	140
1985	Beatty Butte	249
1985	Browns Valley	42
1985	South Steens (Skull Creek)	259
	Total	1,140
1986	Basque	71
1986	Palomino Buttes	56
1986	Cold Springs	304
1986	East Warm Springs	180
1986	Sand Springs	432
	Total	1,043

[1] The public notice for this herd gathering was covered in a separate public meeting on September 17, 1984 in Vale, Oregon.

This meeting is open to the public. Persons interested in making an oral statement at this meeting are asked to notify the District Manager, Burns District Office, 74 South Alvord, Burns, Oregon 97720, by October 1, 1984. Written statements must also be received by this date.

Summary minutes of the meeting will be available for public inspection and duplication within 30 days following the meeting.

Dated: September 14, 1984.

Joshua L. Warburton,

District Manager.

[FR Doc. 84-25041 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-33-M

[Designation Order NV-050-8401]

Nevada Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Off-Road Vehicle Designation Decisions.

SUMMARY: All public lands administered by BLM in the 3,097,131 acre Stateline-Virgin Valley Planning area of the Las Vegas District are hereby designated open, limited, or closed to off-road motorized vehicle use in accordance with executive orders and as a result of the Bureau's Planning System.

SUPPLEMENTARY INFORMATION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited, or closed to off-road motorized vehicle use.

The 3,097,131 acre area affected by the designations is known as the

Stateline-Virgin Valley Planning Units, which include all public lands in Clark County, Nevada. These designations are a result of resource management decisions made in the 1984 Clark County Management Framework Plan III. Comments and recommendations which came as a result of the Clark County Coordinated Resource Management and Planning effort as well as other written responses influenced the designation decisions. The Coordinated Resource Management and Planning effort consisted of a committee of interested citizens representing 36 groups and clubs, 17 federal, state and local agencies, and numerous individual citizens representing at least 26 separate resource interests. This committee held 16 public meetings and working sessions, 5 sub-committee meetings, 3 planning meetings, and 5 field trips to selected areas of concern. These designations are published as final today. Under 43 CFR 4.2 an appeal may be filed within 30 days with the Interior Board of Land Appeals.

A. *Open Designation.* Areas which are designated open comprise approximately 1,182,646 acres. Open designation was determined to be appropriate for these public lands since off-road vehicle use is an important recreational activity and is essential for the conduct of other authorized resource uses.

B. *Limited Designation.*

1. Use limited to existing roads, trails, courses and sand washes—841,283 acres.

a. The Gold Butte area is located 70 miles northeast of Las Vegas, Nevada. It is bounded by the Nevada-Arizona border on the east, the Virgin River-Overton Arm on the north and west and Lake Mead National Recreation Area on the south and west. This designation is made for the protection of small game, desert tortoise and bighorn sheep habitat. Additionally, no high speed competitive events will be allowed.

b. Buffington Pockets-Colorock Quarry is located 35 miles northeast of Las Vegas, Nevada in the Muddy Mountains. It consists of the access corridors into Colorock Quarry and Buffington Pockets and the areas one mile on either side of these roads. This designation is made to protect the geologic and archeological features of the area. Additionally, no high speed competitive events will be allowed.

c. The Spring Mountains are adjacent to the west side of Las Vegas, Nevada. The area boundaries are the 5,000 foot elevation line on the southwest and west, Highway 95 on the north and northeast, the Pahrump Highway on the south, and the Las Vegas Valley Subunit boundary on the east excluding Red Rock Canyon Recreation Lands. The designation is made to maintain the high recreational and scenic values of the area. Additionally, no high speed competitive events will be allowed except for high speed, street legal, rally events on Bureau of Land Management's (BLM) Trout Canyon to Lovell Canyon road.

2. Limited Season of Use—189,101 acres.

a. The Pahranagat-Meadow Valley Wash area is 20 miles northwest of Moapa, Nevada. It is bounded on the east by the escarpment of the Upper Mormon Mesa, excluding the area north of Ferrier; on the south by I-15, Highway 7 and Pahranagat Wash north of Highway 7, excluding Arrow Canyon; on the west by Highway 93; and, on the north by the Lincoln County line. High speed competitive events can only occur from November to April and are limited to two, non-pre-run, motorcycle events per year and one, pre-run, dune buggy event per year. The dune buggy race will take place on a designated route along old U.S. 93 and old Highway 7. These limitations are applied to minimize conflicts with bighorn sheep migrations and critical summer habitat.

b. McCullough Pass, located 37 miles south of Las Vegas, Nevada, is closed to competitive events during July and August to eliminate conflicts with bighorn sheep migration.

c. The southern Spring Mountain Range and Bird Spring Range are centered 35 miles southwest of Las Vegas, Nevada. The area is bounded by the 5,000 foot elevation line on the west side of the southern Spring Mountains, the 4,000 foot elevation line on the west side of the Bird Spring Range, by the Nevada-California border on the south, the 4,000 foot elevation line on the east and the Pahrump Highway and the southern border of Red Rock Canyon Recreation Lands on the north. The area is closed to all pre-run events, November through January, and limited to three pre-run events, May through August, to minimize conflicts with bighorn sheep migrations and critical bighorn and quail summer habitat.

3. Use limited to designated roads only—61,881 acres.

Red Rock Canyon Recreation Lands is located 20 miles west of Las Vegas, Nevada. Vehicle use in this area is permitted on designated roads only. All roads closed to vehicle use will be posted. Road closures will be for the protection of the unique natural character of the area and the high recreational value it supports. To protect its high archeological values, Brownstone Canyon in the northeast corner is closed to vehicles except for maintenance and, by permit, special handicapped or senior citizen groups. Additionally, no high speed competitive events will be permitted north of the Pahrump Highway.

4. Limited type of use—438,842 acres.

a. The southern Eldorado Valley and northern Piute Valley area is located 50 miles southeast of Las Vegas, Nevada. The area is bounded on the north by the Nelson graded road and the common line between T.25S. and T.26S., on the west by the lower flanks of the South McCullough Range, on the southwest by the Nevada-California border, on the southeast by the crucial desert tortoise habitat area and Highway 95, and on the northeast by the Lake Mead National Recreation Area boundary. The area is limited as follows to protect small game and desert tortoise habitat.

(1) *Non-Spectator Speed Events* (Motorcycles).

Limited to 200 entrants; no pre-running; avoid scheduling events on opening weekend of game seasons.

(2) *Sport Car Rallies* (street legal only).

Limited to 200 entrants; designated routes only.

(3) *Non-Speed Events* (All types of vehicles).

Limited to 200 entrants; avoid scheduling events on opening weekend of game seasons; no multiple lapped events.

(4) *Spectator Speed Events* (4 × 4s, Dune buggies, Motorcycles).

Limited to 200 entrants; pre-running is limited to the week before the event.

b. Southern Piute Valley-Laughlin area is located 85 miles southeast of Las Vegas, Nevada and encompasses lands south of the Searchlight Township limited area, east of Highway 95, north of the Nevada border and west of Lake Mead National Recreation Area. The area is limited to protect small game and desert tortoise habitat. The limitations on (1) *Non-Spectator Speed Events;* (2) *Sport Car Rallies;* and, (3) *Non-Speed Events* are identical to those listed above under 4a. — The Southern Eldorado Valley and Northern Piute Valley area. In addition, (4) *Spectator Speed Events* are limited as follows: limited to 200 entrants; existing roads, trails and dry washes only; only one event per year; use limited to period between the close of quail hunting season and March 15; start-finish, pitting and spectator areas will be designated within T.32S., R.66E., Sec. 9, 14, 15 and 16 if on public land; four laps only; and, pre-running is limited to one week prior to the event.

c. The Bird Spring Range and Southern Spring Mountain Range area surrounds Goodsprings, Nevada, east of the 4,000 foot elevation line, west of Interstate 15, south of the Pahrump Highway and north of the California border. High speed competitive events are limited to existing roads, trails, courses and sand washes. This designation is made to protect desert tortoise habitat.

5. Limited to non-conflicting use in bighorn sheep habitat—6,085 acres.

The River Mountains are located 20 miles southeast of Las Vegas, Nevada and are bounded by Lake Mead National Recreation Area on the east, Boulder City, on the south and Henderson on the west and north. The area above the 2,400 foot elevation line is limited to vehicle use which will not conflict with bighorn sheep management.

6. Limited to non-speed competitive and non-competitive use—169,518 acres.

a. Frenchman Mountain is located 10 miles due east of Las Vegas, Nevada. It comprises approximately 12 sections in the southwest corner of T.20S., R.63E. No high speed competitive events will be allowed to protect this area's natural qualities and to act as a buffer for the proposed Wetlands Park.

b. The Las Vegas Sub-Unit (City of Las Vegas, North Las Vegas, and urban townships), Boulder City and Henderson, Nevada areas comprise the urban and adjacent areas around each of these cities. Use is limited to non-speed competitive and non-competitive events to protect air quality in the urban areas.

c. Base of the Arrow Canyon Range west to the Desert Game Range area is centered approximately 40 miles north/northeast of Las Vegas, Nevada and includes the Starvation Flat area south of Highway 7 south to the bend in Highway 93, including portions of the North Las Vegas Range and Hidden Valley. To protect bighorn sheep migration routes, areas of archeological significance, and desert tortoise habitat, use is limited to non-speed competitive and non-competitive use except for an approved corridor along the east side of Highway 93 on the future power line road.

d. Arrow Canyon is located 18 miles northwest of Glendale, Nevada. The area between the upper sand dune and the dam is limited to protect riparian habitat and archeological resources.

7. Limited to non-competitive use—115,717 acres.

a. Desert Wetlands Park—Rainbow Gardens area is located 10 miles east/southeast of Las Vegas, Nevada. It includes the Las Vegas Wash drainage and Rainbow Gardens due north of Las Vegas Wash. The limitation is to protect the unique geologic formations of Rainbow Gardens and the riparian habitat of the wash area.

b. The Searchlight Township limited area is approximately 64 square miles around Searchlight, Nevada. It is limited to reduce air pollution and noise pollution around the residential area.

c. The upper Mormon Mesa is centered 10 miles northwest of Glendale, Nevada. The area is bounded on the west by the Mormon Mesa escarpment, on the north by the Clark-Lincoln County line, on the east by the Carp-Elgin Road and on the south by a line one quarter mile north of Interstate 15. The limitation is to protect bighorn sheep and desert tortoise habitat.

8. Limitations to protect crucial desert tortoise habitat—88,750 acres.

a. Areas west of I-15, south of the Pahrump Highway, east of the Bird Spring Range and north of the California border.

No more than 3 laps; designated pitting areas; use limited to October-April; confined to existing roads, courses, trails, and sand washes; maximum of 3 events per year.

b. Area south of Jean, east of I-15, west of the South McCullough Range and north of the Nevada-California border.

No more than 3 laps; designated pitting areas; used limited to October-April; confined to existing roads, courses, trails and sand washes.

c. Southern Eldorado Valley and northern Piute Valley area.

(1) *Non-Spectator Speed Events* (Motorcycles).

Limited to 200 entrants; no pre-running; avoid scheduling on opening weekend of game seasons; no more than 3 laps; designated pitting areas; use limited to October to April; confined to existing roads, trails, courses and sand washes.

(2) *Sport Car Rallies* (street legal only).

Limited to 200 entrants; designated routes only; use limited to October to April.

(3) *Non-Speed Events.*

Limited to 200 entrants; avoid scheduling on opening weekend of game seasons; no multiple lapped events; use limited to October to April.

(4) *Spectator Speed Events.*

Limited to 200 entrants; pre-running is limited to the week before the event; no more than 3 laps; designated pitting areas; use limited to October to April; confined to existing roads, courses, trails and sand washes.

d. Southern Piute Valley.

Limitations are identical to those of 8c—Southern Eldorado Valley except that non-spectator speed events are limited to three events per year and spectator speed events are not permitted.

e. Areas adjacent to the south and east sides of the Moapa Indian Reservation.

Existing courses only for competitive events; designated pitting areas; no more than 4 laps; avoid creation of new trails by non-ORV users such as seismic crews.

f. Pahranagat/Meadow Valley Wash.

Use limited to November to April; only two, non-pre-run motorcycle races per years; only one, pre-run dune buggy race per year to take place on a designated route which will include old U.S. 93; no more than 3 laps; designated pitting areas; confined to existing roads, trails and sand washes.

C. *Closed Designation.* The 3,308 acre Hidden Valley area is located in the south Muddy Mountains, 33 miles northeast of Las Vegas, Nevada. All motorized use is prohibited in this area to protect the significant archeological values and maintain the natural geologic character of the area.

These designations become effective upon publication in the Federal Register and will remain in effect until rescinded or modified by the authorized officer. Maps delineating these areas and an environmental assessment describing the impact of these designations are available for inspection during regular business hours (7:30 a.m.-4:15 p.m.), Monday through Friday, at the offices listed below.

ADDRESS: For further information about these designations, contact either of the following Bureau of Land Management Officials:

District Manager, Las Vegas District Office, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, NV 89126, (702) 388-6403

Area Manager, Stateline Resource Area Office, 301 E. Stewart Avenue, P.O. Box 7384, Las Vegas, NV 89125, (702) 388-6627.

Kemp Conn,

District Manager, Las Vegas District.

[FR Doc. 84-24693 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-HC-M

Carson City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Carson City District Advisory Council.

DATE: October 18 and 19, 1984.

ADDRESS: El Capitan Lodge, 540 F Street, Hawthorne, Nevada.

SUMMARY: At 9:00 a.m. October 18 the Council will begin a field trip of several cultural resource sites in Mineral County, Nevada. At 7:30 p.m. the Council will convene its business meeting. Topics on the agenda will include cultural resources management, area of critical environmental concern, and comments from the public (9:00 p.m.). The field trip will be continued in the morning of October 19. Anyone may attend the meeting and field trip but must provide their own transportation.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, BLM Public Information Officer, 1050 E. Williams St., Suite 335, Carson City, NV 89701, (702) 882-1631.

Norman L. Murray,

Acting District Manager.

[FR Doc. 84-24960 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-HC-M

[C-0125239; C-28262]

Proposed Continuation of Reclamation Withdrawals, Colorado

September 13, 1984.

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that the two land withdrawals made in connection with the Silt Project be continued for 20 years. The lands in both withdrawals will remain closed to surface entry and mining. They have been and remain open to mineral leasing.

DATE: Comments should be received within 90 days of publication date.

ADDRESS: All comments should be addressed to State Director, Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-294-7626.

The Bureau of Reclamation proposes that the existing land withdrawals made by Secretarial Order of October 22, 1940, and public land order 4384, dated March 19, 1968, be continued for a period of 20 years in accordance with Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The two orders currently withdraw 514.55 acres of public land. The land is located in T. 5 S., Rgs. 92 and 93 W., Sixth Principal Meridian, Colorado.

The purpose of the withdrawals is to protect the Rifle Gap Dam and Reservoir Site, Silt Project, and segregate the land from operation of the public laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publicatin of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the State Director, Colorado State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such determination is made.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-24961 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-JB-M

Idaho Falls District; Medicine Lodge Draft Resource Management Plan and Environmental Impact Statement, Public Hearings and DRMP/DEIS Availability

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Draft Resource Management Plan/ Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft resource managemant plan (RMP) and environmental impact statement (EIS) for proposed management of public lands in the Medicine Lodge Resource Area. The draft RMP and EIS describes and analyzes five alternatives for managing 648,700 acres of public land. In addition to the lands within the Medicine Lodge Resource Area, grazing will be analyzed on 72,053 acres of the Twin Buttes Allotment in the Big Butte Resource Area.

—Alternative A represents the existing situation and will serve as the baseline for analyzing other alternatives. The present level of management on the public lands would be continued. No wilderness study areas would be recommended for wilderness designation. As defined by BLM policy, Alternative A is the proposed action for livestock grazing.

—Alternative B would favor higher livestock stocking levels, more range improvements, land transfer for agricultural developoment and transfer of isolated or difficult to manage parcels out of federal ownership. Restrictions on mining, mineral leasing, mineral material removal, and off-road-vehicle use would be minimized. No wilderness study areas would be recommended as suitable for wilderness designation.

—Alternative C is BLM's Preferred Alternative. A variety of resource uses would be allowed. Production and use of commodity resources and commercial use authorizations would occur, while protecting fragile resources and critical wildlife habitat, preserving natural systems and cultural values and allowing for nonconsumption resource uses. A balanced approach to multiple use would be pursued. No wilderness study areas would be recommended as suitable for wilderness designation.

—Alternative D is the partial wilderness alternative which recommends part of the Sand Mountain and Snake River WSAs as suitable for wilderness designation. All use levels except for wilderness, energy and minerals, and lands would remain the same as for Alternative C, the preferred Alternative.

—Alternative E would protect fragile resources and wildlife habitat, preserve natural systems and favor nonconsumptive resource uses. Management direction would favor habitat management to increase wildlife populations, protection of wilderness qualities and opportunities for general dispersed recreation. Under this alternative, all of both WSAs would be recommended suitable for wilderness designation.

Three Areas of Critical Environmental Concern (ACEC) totaling 36,120 acres would be designated under Alternative C, the BLM's preferred alternative, and would also be designated under Alternatives D and E. The ACECs and use limitations are listed below.

North Menan Butte, 1,120 acres. This unique geologic feature has been designated a National Natural Landmark and has been closed to grazing. Designation as an ACEC would include no grazing, no surface occupancy for mineral leasing, withdrawal from mineral entry, and no ORV use.

Snake River, 10,000 acres. This portion of the South Fork of the Snake

River has been identified as a sensitive ecosystem. Designation as an ACEC would include withdrawal from woodland management, 4,300 acres are currently withdrawn from locatable mineral entry and an additional 5,700 acres would be withdrawn.

Nine Mile Knoll, 25,000 acres: Wildlife habitat is a primary concern and much of the area has already been nominated for designation as a National Natural Landmark. Designation as an ACEC would include closing the area to vehicles from December 1 to March 31 of each year to protect critical winter range for elk, deer and moose.

Copies of the Draft RMP/EIS are available for review at the following locations:

Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: (208) 529-1020

Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706, Telephone: (208) 334-1770

Public Affairs, Bureau of Land Management, Interior Building, 18th and C St., Washington, D.C. 20240, Telephone: (202) 343-9435

DATES: Written comments on the Draft RMP/EIS are invited and should be submitted by December 27, 1984. Two public hearings will be held to receive written and oral comment on the Draft RMP/EIS. A public hearing will be held on November 7, 1984 at 7:30 p.m. in the Courtroom at the Fremont County Courthouse in St. Anthony, Idaho. A second public hearing will be held on November 8, 1984 at 7:30 p.m. in meeting room "A" at the Idaho Falls Public Library in Idaho Falls, Idaho.

ADDRESS: Written comments should be submitted to District Manager, Attn: MLRMP/EIS, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: O'dell A. Frandsen or Donald L. Watson, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: (208) 529-1020.

SUPPLEMENTARY INFORMATION: individuals wishing to testify may do so by appearing at the hearing place previously specified. Persons wishing to give testimony may be limited to 10 minutes with written submissions encouraged.

Dated: September 14, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 84-24959 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare a Planning Amendment for the Parker Mountain Management Frame-Work Plan in Wayne to Garfield Counties, UT; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of July 6, 1984 notice.

SUMMARY: The following lands are to be added to the Federal Register Notice on July 6, 1984—page 27828, Intent to prepare a Planning Amendment for the Parker Mountain Management Frame-Work Plan in Wayne to Garfield Counties, Utah:

T. 30 S., R. 5 E.
Sec. 10, NW¼SE¼.
T. 29 S., R. 5 E.
Sec. 33, W½SW¼NE¼NW¼SE¼, W½NE¼NW¼NW¼SE¼, NW¼NW¼NW¼SE¼, S½NW¼NW¼SE¼, SW¼NW¼SE¼, NW¼SE¼NW¼SE¼, S½SE¼NW¼SE¼, SW¼SE¼.

Dated: September 14, 1984.

Donald L. Pendleton,

District Manager.

[FR Doc. 84-24958 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 071, Block 11, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 12, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert, Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 12, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-25034 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract; International Leisure Hosts, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice was given in the July 13, 1984, Federal Register, pages 28631 and 28632, Vol. 49, FR Document 84-18589, that the National Park Service is proposing to negotiate a concession contract authorizing International Leisure Hosts, Inc., to continue to provide lodging, food, retail merchandising and gasoline facilities and services for the public at John D. Rockefeller Memorial Parkway, Wyoming for a period of fifteen (15) to twenty-five (25) years from January 1, 1985, depending on the magnitude of the investment.

All interested parties were to submit their proposals on or before September 11, 1984. However, it has been determined that it would be in the best interest of all interested parties to provide additional time within which to submit proposals on the proposed contract negotiation.

To be considered and evaluated, all proposals must now be postmarked or hand delivered to the Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, Denver, Colorado 80225, on or before the thirtieth (30th) day following publication of this notice.

Interested parties should contact the Regional Director at the foregoing address for information regarding the requirements of the proposed contract.

Dated: September 14, 1984.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 84-24895 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-70-M

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council will be held in Rangeley, Maine on October 18, from 8:30 a.m. to 5:00 p.m. The agenda of the meeting will include a review of current Appalachian Trail protection and management issues.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry, West Virginia 25425, at Area Code (304) 535-2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, NW. Washington, D.C. 20240, and at the headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, West Virginia 25425.

Dated: September 13, 1984.

David A. Richie,

Project Manager.

[FR Doc. 84-25005 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-70-M

Kenai Fjords National Park; Environmental Impact

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of a Final Environmetal Assessment/General Management Plan, and a Finding of No Significant Impact (FONSI).

SUMMARY: This notice announces the availability of the final environmental assessment/general management plan and a finding of no significant impact (FONSI) for Kenai Fjords National Park.

The draft environmental assessment/general management plan was made available for public and Conservation System Unit Review. Comments were received and considered.

It is the National Park Service's decision to select the alternative which appears as part of the final general management plan to serve as the guideline for the management of Kenai Fjords National Park for the next five to ten years.

ADDRESSES: Public reading copies of the environmental assessment/general management plan will be available for review at the following locations:

1. Parks and Forests Information Center 2525 Gambell Street, Anchorage, Alaska 99503-2892
2. Headquarters, Denai Fjords National Park, Sward, Alaska 99664
3. Department of the Interior, Central Library, Washington, D.C. 20240
4. Interior Resources Library, Federal Building, 701 C Street, Anchorage, Alaska 99513

Copies of the FONSIs are available uon request from; National Park Service, Alaska Regional Office, 2525 Gambell Street, Room 107 Anchorage, Alaska 99503-2892.

Dated: September 12 1984.

Roger J. Contor,

Regional Director, Alaska.

[FR Doc. 84-25006 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Proposed Irrigation Ratesetting Policy; Intent To Extend the Written Comment Period on Water Service Ratesetting Policy; Central Valley Project, California

The Department of the Interior, through the Bureau of Reclamation, has developed an irrigation water ratesetting options paper for the Central Valley Project (CVP). The paper was prepared pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187), Pub. L. 84-643 (70 Stat. 483), Pub. L. 88-44 (77 Stat. 68), and the Reclamation Reform Act of 1982, title II, Pub. L. 97-293 (96 Stat. 1263).

The proposed ratesetting policy options document has been developed to implement the ratesetting provisions of the Reclamation Reform Act, to ensure adequate returns to the Treasury, and to provide equitable charges among water users for services received. This proposed policy is formalized and is available for review by interested parties. The policy options document reviews some water rate history and discusses the need for a standard ratesetting policy. The calculations illustrating irrigation water rates are included for review. Those calculations reflect applications of the proposed policy options to the rate calculations for the project.

The proposed policy options paper includes recommended policy as well as several feasible alternatives for consideration. Sample calculations which demonstrate the impacts of the proposals are provided to enhance understanding of the alternatives.

The Federal Register announcement of public hearings and the original written comment period was published in Volume 49, No. 73, page 14811 dated Friday, April 13, 1984. In response to numerous requests, the comment period for receipt of written comments was extended to August 31, 1984. That extension was published in Volume 49, No. 128, page 27221 dated Monday, July 2, 1984. Due to the need for interested parties to further review information provided to them and to consolidate their comments on the proposed policy options paper, the comment period for receipt of written comments is now extended to September 21, 1984.

Copies of the draft policy may be obtained without charge by writing to the Regional Director, Bureau of Reclamation, Water Rate Policy (MP-440), 2800 Cottage Way, Sacramento, CA 95825. Questions by telephone should be directed to Mr. Merv deHaas at (916) 484-4878.

Dated: September 14, 1984.

Richard Atwater,

Commissioner of Reclamation.

[FR Doc. 84-24577 Filed 9-19-84; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7233. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228

NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Class I Annual Report Motor Carrier of Passengers
OMB Form No.: 3120-0021
Agency Form No.: MP-1
Frequency: Annually
Respondents: Class I Carriers of Passengers
No. of Respondents: 66
Total Burden Hrs.: 2,442

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Motor Carriers of Passengers
OMB Form No.: 3120-0105
Agency Form No.: N/A
Frequency: Annually
Respondents: Motor Carrier of Passengers
No. of Respondents: 66
Total Burden Hrs.: 8,976

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Motor Carriers of Property
OMB Form No.: 3120-0106
Agency Form No.: N/A
Frequency: Quarterly/Annually
Respondents: Motor Carrier of Property
No. of Respondents: 2,606
Total Burden Hrs.: 367,446

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Railroads
OMB Form No.: 3120-0107
Agency Form No.: N/A
Frequency: Annually
Respondents: Railroads with Revenues over $50 million
No. of Respondents: 37
Total Burden Hrs.: 48,840

James H. Bayne,
Secretary.

[FR Doc. 84-24898 Filed 9-19-84; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte Nos. 274 and 282; Sub-Nos. 10 and 3]

Environmental Notices in Abandonment and Rail Exemption Proceedings, and Railroad Consolidation Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: By decision served and published April 17, 1984 (49 FR 15087), the Commission adopted regulations requiring rail carrier applicants in abandonment and exemption proceedings to issue environmental notices directly to the appropriate State agency. That decision requested each State to designate a single agency to receive the notice and to provide this information by May 18, 1984. A list of State agencies is published in this notice.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: Wayne Michel, (202) 275-7657.

SUPPLEMENTARY INFORMATION: We are publishing a list of the State agencies designated to receive environmental notices (See Appendix). In those instances where more than one agency was selected by the State, we have chosen the agency that will receive the notice. If a State failed to provide us with this information by May 18, 1984, the notice will be served on the governor or chief executive officer of that State.

Decided: September 13, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

James H. Bayne,
Secretary.

Appendix

Alabama Department of Environmental Management, 2721 Gunter Park Drive, Montgomery, AL 36130
Attn: Marilyn G. Elliott, Permit Coordinator

Alaska Department of Environmental Conservation, 437 E Street, Anchorage, AK 99501
Attn: Robert Martin

Arizona Department of Transportation, Transportation Planning Division, 206 South 17th Avenue, 310B, Phoenix, AZ 85007

Arkansas Highway and Transportation Department, P.O. Box 2261, Little Rock, AR 72203

Chief, Railroad Operations & Safety Branch, California Public Utilities Commission, 1390 Market Street, San Francisco, CA 94102

Public Utilities Commission, 1580 Logan St., Office Level II, Denver, CO 80203

Bureau of Planning & Research, Connecticut Department of Transportation, 24 Wolcott Hill Road, Wethersfield, CT 06109

Mrs. Francine Booth, Federal Aid Coordinator, Budget Office, State Single Point of Contact, P.O. Box 1401, Dover, DE 19903

Mayor, 1350 Pennsylvania Avenue, NW., Washington, DC 20004

Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, FL 32301
Attn: Ron Fahs

Transportation Rates and Services Division, Georgia Public Service Commission, 244 Washington Street, SW., Atlanta, GA 30334

State of Idaho Transportation Department, P.O. Box 7129, Boise, ID 83707
Attn: Ronald K. Kerr, Principal Planner

State Historic Preservation Office, Department of Conservation, 605 State Office Bldg., 400 South Spring Street, Springfield, IL 62706

Indiana Department of Transportation, Suite 300, 143 West Market Street, Indianapolis, IN 46204
Attn: Roland Jr. Mross, Director

Office of the General Counsel, Iowa Department of Transportation, Transportation Regulation Authority, 507 Tenth Street, Des Moines, IA 50319

Kansas State Historical Society, 120 West Tenth Street, Topeka, KS 66612

Director, Division of Transportation, Kentucky Transportation Cabinet, State Office Building, Frankfort, KY 40622

Chief of Technical Studies, Department of Transportation & Development, Capitol Station, P.O. Box 44245, Baton Rouge, LA 70804

Transportation Services Division, Maine Department of Transportation, State Office Building, Augusta, ME 04333

Director, State Clearinghouse for Intergovernmental Assistance, Department of State Planning, 301 West Preston Street, Baltimore, MD 21201

Executive Office of Environmental Affairs, 100 Cambridge Street, Boston, MA 02202

Michigan Department of Transportation, Bureau of Urban and Public Transportation, Box 30028, Lansing, MI 48909

Rail Manager, Minnesota Department of Transportation, Transportation Building, Room 820, St. Paul, MN 55155

Mississippi Public Service Commission, P.O. Box 1174, Jackson, MS 39205

Mr. Robert N. Hunter, Chief Engineer, Missouri Highway and Transportation Dept., P.O. Box 270, Jefferson City, MO 65102

William J. Fogarty, Transportation Division, Department of Commerce, 1424 9th Avenue, Helena, MT 59620-0401

The Nebraska State Historical Society, 1500 R Street, Lincoln, NE 68508

State Office of Community Services, Capitol Complex, Carson City, NV 89710

New Hampshire Department of Transportation, 85 Loriden Road, John O. Morton Building, Concord, NH 03301
Lawrence Schmidt, Director, Planning Group, Office of the Commissioner, Department of Environmental Protection, CN 402, Trenton, NJ 08625
State Planning Officer, State Capitol, 403 Capitol Building, Santa Fe, NM 87501
State Clearing House, Division of Budget, State Capitol, Albany, NY 12224
North Carolina State Clearinghouse, 116 West Jones Street, Raleigh, NC 27611
North Dakota Public Service Commission, State Capitol Building, 12th and 13th Floors, Bismarck, ND 58505
Ohio Department of Transportation, P.O. Box 899, Columbus, OH 43216-0899
Oklahoma Corporation Commission, Transportation Division, Railroad Department, Jim Thorpe Building, Oklahoma City, OK 73105
Public Utility Commissioner, Rail/Air Program, Labor & Industries Building, Salem, OR 97310
Department of Environmental Resources, Third and Reily Streets, P.O. Box 1467, Harrisburge, PA 17120
Rail Projects Coordinator, Rhode Island Department of Transportation, State Office Building, Providence, RI 02903
The Honorable Richard W. Riley, Governor, Attn: Mr. Donald N. Tudor, Director, Governor's Division of Transportation, Edgar A. Brown Building, 1205 Pendleton Street-Suite 476, Columbia, SC 29201
South Dakota Department of Environmental Protection, Foss Building, Pierre, SD 57501
Bureau of Waterways & Rail Transportation, Tennessee Department of Transportation, 1 Commerce Place, Suite 900, Nashville, TN 37219
William Nicholas, TENRAC, Office of the Governor, State Capitol Post Office Box 12428, Austin, TX 78711
Office of Planning and Budget, State Capitol Building, Salt Lake City, UT 84114
Attn: Carolyn Wright
Director, State Planning Office, Pavillion Building, Montpelier, VT 05602
Department of Highways & Transportation, 1401 E. Broad Street, Richmond, VA 23219
State Historic Preservation Officer, Office of Archaeology and Historic Preservation, 111 West 21st, Olympia, WA 98504
West Virginia Railroad Maintenance Authority, P.O. Box 490, Moorefield WV 26836
State of Wisconsin, Department of Transportation Analysis and Review, 4802 Sheboygan Avenue, P.O. Boc 7916, Madison, WI 53707
State Planning Coordinator's Office, 2320 Capitol Avenue, Cheyenne, WY 82002

[FR Doc. 84-24905 filed 9-19-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-31 (Sub-20X)]

Rail Carriers; Grand Trunk Western Railroad Co.—Abandonment—In Bay County, MI; Exemption

The Grand Trunk Western Railroad Company (GTW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exemption Abandonments.*

The line to be abandoned is that portion of the former Michigan Central Mackinaw Branch (Bay City Belt) between milepost 0.0 and milepost 4.0, a total distance of 4.0 miles in Bay County, MI.

GTW has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Michigan has been notified in writing at least 10 days prior to the filing of the notice. See *Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition of use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on October 22, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 1, 1984, and petitions for reconsideration, including enviromental, energy, and public use concerns, must be filed by October, 10, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: John C. Danielson, 131 West Lafayette Blvd., Detroit, MI 48226.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 13, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-24924 Filed 9-19-84; 8:45 am]
BILLING CODE 7035-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Federal Advisory Committee Act; Meeting

September 17, 1984.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1982), notice is hereby given that the Shipbuilding Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Monday and Tuesday, October 1-2, 1984. The panel, chaired by Dr. Don Walsh, will meet in San Francisco, CA. For the exact location of the meeting please call Steven Anastasion at 202/653-7818. This work session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 5:00 p.m. on both days.

Persons desiring to attend will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman of the Shipbuilding Panel, Dr. Don Walsh, in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion or Ms. Linda K. Glover, the Staff Member for the Shipbuilding Panel. The mailing address is NACOA, 3300 Whitehaven Street, NW., Suite 438, Page Building #1, Washington, DC 20235.

Dated: September 17, 1984.

Steven N. Anastasion,

Executive Director.

[FR Doc. 84-24974 Filed 9-19-84; 8:45 am]
BILLING CODE 3510-12-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on October 9, 1984, Room 1046, 1717 H Street, NW, Washington, DC.

This meeting will address recent events at operating nuclear power plants. The exact incidents to be explored are not as yet known. Should these events involve proprietary information, safeguards information, or information submitted in confidence by a foreign government it will be necessary to close that protion of the meeting to public attendance. However, to the extent practical, this meeting will be open to pubic attendance and any closed sessions will be held so as to minimize inconvenience to members of the public.

The agenda for subject meeting shall be as follows:

Tuesday, October 9, 1984—8:30 a.m. Until the Conclusion of Business

The Subcommittee will review the NRC Staff recent experiences at operating nuclear power plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, Subcommittee consultants, and others.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John C. McKinley (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 14, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-24984 Filed 9-19-84; 8:45 am]

BILLING CODE 7590-01-M

Availability of NUREG-1061 Volume 1, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee Volume 1: Investigation and Evaluation of Stress-Corrosion Cracking in Piping of Boiling Water Reactor Plants"

The Nuclear Regulatory Commission announces the availability of NUREG-1061, Volume 1, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee: Investigation and Evaluation of Stress-Corrosion Cracking in Piping of Boiling Water Reactor Plants" which was prepared by the Task Group on Pipe Cracking of the NRC Piping Review Committee.

The U.S. NRC Piping Review Committee was established by the Executive Director for Operations of the USNRC to make a comprehensive review of the NRC requirements in the area of nuclear power plant piping. The Task Group on Pipe Cracking was assigned the review of the stress-corrosion cracking problem and to make recommendations on the approach to deal with the problem. This report presents specific conclusions and recommendations that are tied closely to relevant regulatory and staff positions.

This report covers aspects such as the causes and descriptions of the intergranular stress corrosion cracking (IGSCC) phenomena; current status of pipe cracking in BWR's; nondestructive examinations of piping weldments; inspection of piping for IGSCC; decisions and criteria for replacement, repair or continued operation without repair; risk related to the presence of IGSCC; and a value-impact assessment of IGSCC.

Public comments on NUREG-1061, Volume 1 are solicited, and any comment received within 45 days of the date of the Federal Register notice will be considered for the revision of the implementation document NUREG-0313, "Technical Report on Materials Selection and Processing Guidelines for BWR Collant Pressure Boundary Piping."

Comments and/or questions should be directed to B.D. Liaw, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone 301-492-4360.

Free single copies of the report may be requested for public comment by writing to the Publications Service Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 19th day of September 1984.

R.H. Vollmer,

Cochairman, NRC Piping Review Committee.

L. Shao,

Cochairman, NRC Piping Review Committee.

[FR Doc. 84-24985 Filed 9-19-84; 8:45 am]

BILLING CODE 7590-01-M

South Carolina Electric & Gas Co., South Carolina Public Service Authority, Virgil C. Summer Nuclear Station, Unit 1, Environmental Assessment and Finding of No Significant Impact

Environmental Assessment

Identification of Proposed Action: The NRC is considering a proposed license amendment which would permit the increase in the licensed spent fuel storage capacity from 682 spent fuel assemblies to 1276 spent fuel assemblies for the V.C. Summer spend fuel pool. This would extend the full core discharge capability for the V.C. Summer facility from the year 1993 to the year 2008.

The Need for the Proposed Action: Disposal of V.C. Summer spent nuclear fuel is scheduled to be carried out by the Department of Energy in or after 1998 in accordance with Public Law 97-425; Nuclear Waste Policy Act of 1982. As V.C. Summer spent fuel may not be accorded a high priority under the DOE program, the licensee is seeking to provide a spent fuel storage capacity to support approximately twenty-five years of nominal operation. No other contractual arrangements exist for the interim storage or reprocessing of spent fuel from V.C. Summer Nuclear Station. The fuel discharge schedule indicates that with the high density spent fuel racks, loss of full core discharge capability (FCDC) will occur in 2008.

Alternatives to Increased Spent Fuel Storage: Alternatives to the proposed increase of onsite spent fuel storage have been considered. These alternatives are as follows:

- *Shipment of fuel to a reprocessing or independent spent fuel storage/disposal facility.*

No commercial spent fuel reprocessing facilities are presently operating in the United States. The licensee has made contractual arrangements whereby spent nuclear fuel and/or high level nuclear waste will be accepted and disposed of by the U.S. Department of Energy; but such services are not expected to be available before 1998. The V.C. Summer Nuclear Station existing spent fuel storage capacity will not provide full core discharge capability beyond 1993. Spent fuel acceptance and disposal by the Department of Energy is not, therefore, an alternative to increased on-site pool storage capacity for the period before 1998 at the earliest.

• *Not operating the plant after the current spent fuel storage capacity is exhausted.*

As indicated in NUREG–0575, "Final Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel," the replacement of nuclear power by coal-generating capacity would cause excess mortality to rise from 0.59–1.70 to 15–120 per year for 0.8 GWY(e). Based on these facts, not operating the plant or shutting down the plant after exhaustion of spent fuel discharge capacity are not viable alternatives to high density storage in the spent fuel pool. The prospective 1983 expenditure of approximately $1.4 million for the high density racks is small compared to the estimated value of replacement power equivalent to the plant's energy output; approximately $9 million per month in 1983 and between $18.1 and $22.7 million per month in 1990–1991.

Occupational Radiation Exposures: The staff has evaluated the radiation protection aspects of the licensee's plans to modify the spent fuel pool.

The spent fuel pool at Summer has never been used to store irradiated fuel assemblies and contains only a minimal amount of contamination. Radiation levels have been measured at three (3) depths within the pool and a maximum exposure rate of 0.5 mR/hr has been detected at the bottom of the pool Because of the low exposure rates, personnel exposure from the rerack operations is expected to be minimal. However, the licensee has taken measures to ensure that personnel exposures to divers working in the spent fuel pool are ALARA. These measures include:

(1) Reviewing all procedures for removing and installing the racks with the diving contractor,

(2) All work will be done under the radiation work permit (RWP) program to ensure that doses are ALARA,

(3) All divers will be issued personnel dosimetry and any doses received will be carefully monitored,

(4) Vacuums will be used to clean the floors of the spent fuel pool after the removal of the old racks.

The licensee does not expect any significant increase in radiation levels due to the buildup of radioactive crud along the side of the pool. If crud buildup eventually becomes a major contributor to pool radiation levels, measures will be taken to reduce such exposure rates. The purification system for the pool includes filters and demineralizers to remove crud and will be operating during the modification of the pool.

The licensee performed a three-dimensional shielding analysis on the spent fuel pool assuming the pool is filled to capacity with the proposed storage densification arrangement. This analysis shows that radiation exposure rates will be less than 1 mR/hr on the outside of the pool walls and at the pool surface from the stored spent fuel. This radiation level meets the V.C. Summer design radiation zoning for the fuel handling building. The shielding analysis was performed using the shielding codes recommended by the NRC staff in NUREG–0800 and therefore, is acceptable.

SCE&G has presented the following plans for the removal and disposal of the existing racks. The present racks will be unbolted and removed from the pool by divers and using a temporarily installed crane. The old racks will receive an initial high pressure water spray in the decontamination pit to remove the majority of the surface contamination. The exposure rate from this surface contamination is estimated to be less than 2 mR/hr while the radiation level of the racks is estimated to be 0.5 mR/hr. The racks will be temporarily stored in the fuel handling building. SCE&G is considering several options for removing the racks which include: contractor removal, in-house decontamination and disposal, and in-house decontamination and storage on site for possible future use. The staff will monitor the final disposals of these racks.

Based on our review of the Summer SFP modification description and relevant experience from other operating reactors that have performed similar modifications, the staff concludes that the licensee's modification can be performed within the limits of 10 CFR Part 20 and in a manner that will maintain doses to workers ALARA.

We have estimated the increment in occupational dose during normal operations, after the pool modification, resulting from the proposed increase in stored fuel assemblies. The spent fuel assemblies contribute a negligible amount to dose rates in the pool area because of the depth of water shielding the fuel; the major source of exposure is the radionuclide concentrations in the pool water. The most significant contributor to the radionuclides is the movement of fuel rather than the number of fuel assemblies in the pool. Thus the additional assemblies will add a negligible amount to area dose rates. Based on present and projected operations in the spent fuel pool area and experience from similar modifications, we estimate that the proposed modification should add less than one percent to the total annual occupational radiation dose to plant personnel. The small increase in radiation dose should not affect the licensee's ability to maintain individual occupational doses within the limits of 10 CFR Part 20, and ALARA.

Radioactive Waste Treatment Systems: The plant contains waste treatment systems designed to collect and process the gaseous, liquid and solid waste that might contain radioactive material. The waste treatment systems are evaluated in the Final Environmental Statement (FES) dated May 1981. There will be no change in the waste treatment systems described in the FES because of the proposed modification.

Radioactive Material Released to the Atmosphere: With respect to releases of gaseous materials to the atmosphere, the only radioactive gas of significance which could be attributable to storing additional fuel assemblies for a longer period of time would be the noble gas radionuclide Krypton–85 (Kr–85). Experience has demonstrated that after spent fuel has decayed 4 to 6 months, there is no longer a significant release of fission products, including Kr–85, from stored fuel containing cladding defects. An average of 70 fuel assemblies are expected to be stored following each refueling. Since space must be reserved to accommodate a complete reactor core unloading operation (157 fuel assemblies), the useful pool capacity is 1119 fuel assemblies. For the Virgil C. Summer Station, one full core storage capability will be maintained until after the sixteenth refueling cycle estimated for Spring 2008. Up to this date, the oldest spent fuel will have been stored for approximately 24 years.

We assumed that all of the Kr–85 that is going to leak from defective fuel is going to do so in the interval between refuelings. The assumption is

conservative and maximizes the amount of Kr-85 to be released. Our calculations show that the maximum expected release of Kr-85 from one refueling cycle (70 assemblies) is approximately 86.7 curies. Accordingly, the enlarged capacity of the pool has no significant effect on the greatest release rate of Kr-85 to the atmosphere each year. Thus, we conclude that the proposed modifications will have insignificant effect on offsite exposures.

Iodine-131 releases from spent fuel assemblies to the SFP water will not be significantly increased because of the expansion of the fuel storage capacity since the Iodine-131 inventory in the fuel will decay to negligible levels between refuelings for each unit.

Most of the tritium in the SFP water results from activation of boron and lithium in the primary coolant and this will not be affected by the proposed changes. A relatively small amount of tritium is contributed during reactor operation by fissioning of reactor fuel and subsequent diffusion of tritium through the fuel and the Zircaloy cladding. Tritium release from the fuel essentially all occurs while the fuel is hot, that is, during operations and, to a limited extent, shortly after shutdown. Thus, expanding SFP capacity will not increase the tritium activity in the SFP.

Storing additional spent fuel assemblies is not expected to increase the bulk water temperature during normal refuelings above the 150 °F used in the design analysis. Therefore, it is not expected that there will be significant change in the annual release of tritium or iodine as a result of the proposed modifications from that previously evaluated in the FES.

Solid Radioactive Waste: The concentration of radionuclides in the pool water is controlled by the filters and the demineralizer and by decay of short-lived isotopes. The activity is highest during refueling operations when reactor coolant water is introduced into the pool, and decreases as the pool water is processed through filters and demineralizer. The increase of radioactivity, if any, due to the proposed modification, should be minor because of the capability of the cleanup system to continuously remove radioactivity in the SFP water to acceptable levels.

The licensee states that the amount of solid waste expected to be generated by the spent fuel pool cleanup system is approximately 54 cubic feet per year. The licensee does not expect that this SFP modification will result in any significant increase in this amount of solid waste generated from the spent fuel pool cleanup system. We agree with the licensee and note that should there be an increase in spent fuel pool resin waste generation, the total would still be within those values estimated in the FES.

The present spent fuel racks have not been exposed to spent fuel and, consequently, are only minimally contaminated. Removal and disposal of these existing racks will have minor radiological impact. The disposition of these racks has not been determined by the licensee. However, should the present racks be shipped to an ultimate burial site, the additional quantity of solid waste is not expected to be environmentally burdensome.

Radioactive Material Released to Receiving Waters: Since the SFP cooling and cleanup system operates as a closed system, only water originating from cleanup of SFP floors and resin sluice water need be considered as potential sources of radioactivity.

It is expected that neither the quantity nor activity of the floor cleanup water will change as a result of this modification. The SFP demineralizer resin removes soluble radioactive material from the SFP water. These resins are periodically sluiced with water to the spent resin storage tank. The amount of radioactivity on the SFP demineralizer resin may increase slightly due to the additional spent fuel in the pool, but the soluble radioactive material would be retained on the resins. If any radioactive material is transferred from the spent resin to the sluice water, it will be removed by processing through the liquid radwaste system. Therefore, because of the liquid waste processing system that captures radioactive material, it is not expected that any additional radioactivity in liquid form will be released to the environment resulting from the proposed modification.

Non-Radiological Effluents: The only non-radiological discharge altered by the fuel pool modification is the waste heat. After ten years out of the reactor the rate of heat generation of the fuel is small. After shutdown, radioactive decay within the fuel continues to produce some heat. The rate of heat generation from within the fuel assemblies decreases approximately exponentially after reactor shutdown, decreasing significantly in the first few days. Although heat will continue to be released by the older fuel, the maximum design basis heat load (16.1×10^6 Btu/hr) for the expanded fuel pool, when full, will be within about six percent of the design basis heat load for the fuel pool when full as currently configured. The small contribution of heat of the older spent fuel assemblies as described above will be negligible in comparison to the total rate of heat discharge from the V.C. Summer Nuclear Station to the Monticello Reservoir. The total station heat discharge rate will be essentially unchanged from about 6.7×10^9 Btu/hr.

There will be no effect on the chemical quality of discharges to the Monticello Reservoir. Increasing the storage capacity of the pool will not result in any change in chemical usage or discharge. No changes will be needed in the NPDES Permit or in any other EPA or state certificates.

Cask Drop Accident: The spent fuel cask will not be lifted more than 30 ft. above an unyielding surface (except over the flooded cask loading pit which is effectively equivalent to a 30 ft. drop in air) during the entire transfer operation under normal operating conditions. On this basis, no radiological release is anticipated from such a drop, and, therefore, no doses need be evaluated.

Fuel Handling Accident: For a fuel handling accident, it is assumed that a fuel assembly is dropped by the refueling crane into the reactor core or spent fuel pool. The staff's review indicates that the proposed spent fuel pool modification does not increase radiological consequences of fuel handling accidents considered in the staff Safety Evaluation Report of February 1981, since this accident would still result in, at most, release of the gap activity of one fuel assembly due to the limitation on available impact kinetic energy.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statements dated January 1973 and May 1981 related to this facility.

Agencies & Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact: Based upon the foregoing environmental assessment, we conclude that the proposed license amendment to increase the storage capacity of the spent fuel pool will not have a significant effect on the quality of the human environment. The Commission has, therefore, determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the request for amendment dated January 23, 1984, as supplemented March 6, April 4, and 17, May 11, 18 and 30, July 10 and 31 (two letters), and August 8 and 17, 1984, which is available for public inspection at the

Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29810.

Dated at Bethesda, Maryland, this 17th day of September 1984.

For The Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-24988 Filed 9-19-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-77 and DPR-79, issued to Tennessee Valley Authority (the licensee), for operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Hamilton County, Tennessee.

The amendments would permit a revision to the Physical Security Plan to provide a more efficient security operation at the Sequoyah facilities. The revised plan, proposed by the license, would reduce the size of the protected area secured by the plant's security force, allowing an improved concentration of security personnel and hardware around the vital areas. No facet of plant operations will be affected by the changes. Other changes include organizational revisions and security responsibilities of personnel affected by the reorganization. While under the proposed security plan, certain currently implemented measures would be eliminated that would constitute a reduction in security effectiveness, the licensee has proposed additional measures and methods to satisfy the regulatory requirements of 10 CFR Part 70. The staff's preliminary views indicate that, with the proposed changes, the requirements of Part 73 will remain satified. These changes were requested in the licensee's application for amendments dated June 13, 1984.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870) of actions likely to involve no significant hazards consideration. One of the examples of actions likely to involve no significant hazards consideration relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the changes are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Another example is purely administrative changes to the Technical Specifications, for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The proposed changes involved here are similar to these examples in that there is some reduction in security effectiveness and administrative changes are being proposed for the implementation of the new security plan. Accordingly, the Commission has made an initial determination that the above changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission with not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By October 22, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specifically. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the

hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). the Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland, this 14th day of September 1984.

For the Nuclear Regulatory Commission.

Carl R. Stahle,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84-24988 Filed 9-19-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co. (North Anna Power Station Units Nos. 1 and 2); Exemption

I

The Virginia Electric and Power Company (the licensee) holds Facility Operating License Nos. NPF-4 and NPF-7 which authorize the operation of the North Anna Power Station Units Nos. 1 and 2, respectively (the facility). The facility consists of two pressurized water reactors located at the licensee's site in Louisa County, Virginia. The licenses provide, among other things, that they are subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F of Appendix E requires each licensee to conduct an emergency preparedness exercise at least annually and to include participation of State and local governments within the plume exposure pathway Emergency Planning Zone (EPZ) at least biennially.

The licensee's letter of February 17, 1984 requested that an exemption be granted to the schedular requirements of 10 CFR Part 50, Appendix E, section IV.F, as it applies to the forthcoming November 15, 1984 emergency preparedness exercise to be held at North Anna. At the time of the licensee's request the applicable regulation required participation by State and local governments annually. The licensee bases this request for exemption on discussions with representatives of the Commonwealth of Virginia and of the Federal Emergency Management Agency (FEMA). In the subject discussions, the Commonwealth of Virginia requested that a date of November 15, 1984 be established for the 1984 North Anna exercise to allow time for installation of a computer network system within all local jurisdictions within the 10-mile EPZ. The computer network will be interconnected with the VEPCO Emergency Operations Facility and the State Emergency Operations Center for the purpose of providing rapid data flow and offsite dose projection calculations.

The previous emergency exercise was held in June 1983. Although deficiencies were identified, FEMA determined that they did not detract from the overall demonstrated capability to protect the health and safety of the public. The NRC staff has reviewed the results of the 1983 exercise and agrees with the FEMA finding.

The Commission has recently changed its requirements concerning State and local government participation in emergency exercise from annual to biennial under conditions set forth in the revised rule (49 FR 27733). Thus, no exemption is required to permit an exercise with State and local participation to be conducted in November 1984. However, the licensee does not wish to conduct a separate annual exercise of its plan without state and local participation, when a full exercise with state and local participation will be conducted shortly in November 1984. Thus, to this extent an exemption is still required.

The staff has also reviewed the schedules of past exercises at North Anna and has determined that the North

Anna exercise dates have consistently fallen within the prescribed limits and that there is no specific pattern showing either intentional or inadvertent exceeding of the intended annual exercise requirement. Furthermore, to require literal compliance with section IV.F of Appendix E to 10 CFR Part 50 would be undesirable since a better exercise can take place once the computer network system is installed and an integrated exercise occurs which involves, VEPCO, State and local government participants.

Based on the above, the staff concludes that scheduling the North Anna emergency preparedness exercise for November 15, 1984, will not adversely affect the overall state of emergency preparedness at the North Anna site. Therefore the requested exemption from the schedular requirements of 10 CFR Part 50, Appendix E, section IV.F, should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's February 17, 1984 letter is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the licensee is authorized to conduct the 1984 annual North Anna facility emergency exercise and related drills in November 1984.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (49 FR 36039).

For further details with respect to this action, see the licensee's request dated February 17, 1984 that is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia, and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 13th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84-24987 Filed 9-19-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Publication of Notices of Systems of Records and Proposed New Routine Use

AGENCY: Office of Personnel Management.

ACTION: Notice; publication of notices of systems of records and two proposed new routine uses for two systems.

SUMMARY: This notice provides an up-to-date complete text, with some minor administrative changes, of the Office of Personnel Management's notices of its nine Government-wide systems of records and two of its central systems. This notice also proposes two new routine uses for the systems of records identified as "OPM/internal-5, Pay, Leave, and Travel Records" and "OPM/GOVT-3, Records of Adverse Actions and Actions Based on Unacceptable Performance." This action effects the administrative changes and makes readily available in one issue of the Federal Register an accurate and complete text of these notices (except OPM/INTERNAL-1) for use by covered individuals and agency Privacy Act offices.

DATES: The notices with the non-substantive administrative changes are effective on September 20, 1984. The proposed new routine uses will become effective, without further notice, on November 5, 1984, unless comments dictate otherwise.

ADDRESS: Written comments on the proposed new routine uses may be sent or delivered to: the Assistant Director for Workforce Information, Room 5415, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Workforce Records Management Division, (202) 632-5433.

SUPPLEMENTARY INFORMATION: In calendar years 1982 and 1983, the Office of Personnel Management (*hereafter referred to as the Office*) made both substantive and non-substantive changes to its nine Government-wide systems and two of its central systems. Thus, to have a complete copy of the notices, a user would need to have several different Federal Register notices for each system. To ensure that users have a copy of the current text of each of the notices, the Office is publishing the complete text of these 11 system notices with additional non-substantive administrative changes.

The Office is also proposing new routine uses for two of its system of records identified as "OPM/INTERNAL-1, Pay, Leave, and Travel Records" and "OPM/GOVT-3, Records of Adverse Actions and Actions Based on Unacceptable Performance." The proposed new routine use for the OPM/INTERNAL-1 system is necessary to permit disclosure of data to implement the provisions of the Debt Collection Act with regard to furnishing information to collection agents or to effect salary offset.

The routine use for the OPM/GOVT-3 system is the same routine use currently in place for the system of records identified as "OPM/GOVT-2, Employee Performance File System Records." The Office considers that effective personnel management includes the use of records (1) to ensure correct personnel actions; (2) to provide conditions that aid agency missions; and (3) to foster public confidence in a particular agency and in the whole Government. The Office believes that the disclosures to be permitted under this routine use will assist in effective personnel management; therefore, the disclosures are compatible with the purpose for maintaining the records. The specific conditions for making disclosures and the limited retention span for these records provide adequate protection of employee privacy.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

The Office makes the following administrative changes to the notices of 11 of its Privacy Act system of records and also proposes two new routine uses for the systems of records identified as "OPM/INTERNAL-1, Pay, Leave, and Travel Records" and "OPM/GOVT-3, Records of Adverse Actions and Actions Based on Unacceptable Performance."

OPM/INTERNAL-1

SYSTEM NAME:

Pay, Leave, and Travel Records. (Complete text appears at 48 FR 37117, August 16, 1983.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

u. To disclose relevant and necessary financial records to a Federal agency or to a person or organization contracting with a Federal agency for rendering collection services or salary/administrative offset under the purview of sections 5, 10, and 13 of the Debt Collection Act of 1982.

* * * * *

OPM/CENTRAL-1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415. Certain records pertaining to State income tax withholdings from annuitant payments are located with State Taxing Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Former Federal employees and members of Congress who performed service subject to the Civil Service Retirement (CSR) system.

b. Current Federal employees who have:

(1) Performed Federal service subject to the CSR system other than with their present agency; or

(2) Filed a designation of beneficiary for benefits payable under the CSR system; or

(3) Requested the Office to review claims for health benefits made under the Federal Employees Benefits Program; or

(4) Filed a service credit application with former Federal service; or

(5) Filed an application for disability retirement with the Office and are awaiting final decision, or whose disability retirement application has been disapproved by the Office.

c. Former Federal employees who died subject to or who retired under the CSR system, or their surviving spouses and/or children, who have received or are receiving CSR benefits, Federal Employees Group Life Insurance benefits, or Federal Employees Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government retirement system other than the CSR system, or their surviving spouses and/or children, who have received or are receiving Federal Employees Group Life Insurance benefits and/or Federal Employees Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system comprises those retirement service history records of employees' service in the Federal Government other than that for the agency in which they may presently be employed. Also included in the system are current personnel data pertaining to active United States Postal Service employees who, by virtue of the provisions set forth in 5 U.S.C. 2105(e), are not considered civil service employees. It also contains information developed in support of claims for benefits made under the retirement, health benefits, and life insurance programs for Federal employees that the Office administers. Also included are medical records and supporting evidence on those individuals whose application for disability retirement has been rejected. Consent forms and other records related to the withholding of State income tax from annuitant payments, whether physically maintained by the State or the Office, are included in this system. These records contain the following information:

a. Documentation of Federal service subject to the CSR system.

b. Documentation of service credit and refund claims made under the CSR system.

c. Documentation of voluntary contributions made by eligible individuals.

d. Retirement and death claims files, including documents supporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims (after receipt by the Office), and designations of beneficiary.

e. Claim review files pertaining to requests that claims made under the Federal Employee Health Benefits program be reviewed by the Office.

f. Documentation of continuing coverage for life insurance and health benefits for annuitants and their survivors under a Federal Government retirement system other than the CSR system, or for compensationers and their survivors under the Office of Workers Compensation Programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 3301 and chapters 83, 87, and 89 of title 5, United States Code; Pub. L. 83–598, 84–356, 86–724, and 94–455, and Executive Order 9397.

PURPOSES:

These records provide information and verification on which to base entitlement and computation of CSR and survivors' benefits, Federal Employees Health benefits and enrollments, and Federal Employees Group Life Insurance benefits, and to withhold State income taxes from annuitant payments. These records also serve to review rejection of applicants for Federal employment on medical suitability grounds. These records also may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under the Office's or the recipients' benefits program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Workers' Compensation Programs; Veterans Administration Pension Benefits Program; HHS' Social Security Old Age, Survivor and Disability Insurance and Medical Programs, Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the CSR system); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

b. To disclose to the Federal Employees Group Life Insurance Office information necessary to verify the election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

c. To disclose to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

d. To disclose to any inquirer, if sufficient information is provide to assure positive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls, and, if so, the type of annuity (employment or survivor, but not retirement on disability) being paid, or if not, whether a refund has been paid.

e. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump-sum benefits, information in the individual's record that might properly be disclosed to the individual, and the name and relationship of any other person whose claim for benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury,

information as required by the Internal Revenue Code of 1954, as amended.

g. To disclose to the Department of the Treasury information necessary to issue benefit checks.

h. To disclose information to any person who is responsible for the care of the individual to whom a record pertains, and who is found by a court or the Office Medical Officers to be incompetent or under other legal disability, information necessary to assure payment of benefits to which the individual is entitled.

i. To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an annuitant, or former employee, for enforcing child support obligations against such individual.

j. In connection with an examination ordered by the agency under:

(1) Fitness for duty examination procedures; or

(2) Agency-filed disability retirement procedures.

To disclose to the agency-appointed representative of an employee all notices, decisions, other written communications, or any pertinent medical evidence other than medical evidence that a prudent physician would hesitate to inform the individual of; such medical evidence will be disclosed only to a licensed physician, designated in writing for that purpose by the individual or his or her representative.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the Office becomes aware of an indication of a violation or potential violation of a civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested relevant to the Office determination on an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefits program, to the extent necessary to identify the individual and the type of information requested.

m. To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

n. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

o. To disclose information to another Federal agency, to a court or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

p. To disclose to a Federal agency, in response to its request, information in connection with (1) the hiring, retention, separation, or retirement of an employee; (2) the issuance of a security clearance; (3) the reporting of an investigation of an employee; (4) the letting of a contract; (5) the classification of a job; or (6) the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the Office determines that the information is relevant and necessary to the requesting agency's decision on the matter.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compling descriptive statistics, and making analytical studies to support the function for which the records were collected and maintained.

s. By the Office, in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

t. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

u. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to the Office specifying the particular portion(s) of the record desired (including an address) and the law enforcement activity for which the record is sought.

v. To disclose to a Federal agency, in response to its request, the address of any annuitant or applicant for refund of retirement deductions, if the agency requires that information to provide consideration in connection with the collection of a debt due the United States.

w. To disclose information in valid emergency situations when consent cannot readily be obtained and instant action is required, to persons who have a need to know, if the particulars of the disclosure then are transmitted to the subject's last known address.

x. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

y. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

z. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

aa. To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs to contact the former employee concerning a possible threat to his or her health or safety.

bb. To disclose to an allottee, as defined in 5 CFR 831.1501, the name, address, and the amount withheld from an annuitant's benefits, pursuant to 5 CFR 831.1501 *et seq.* as an allotment to that allottee to implement the program of voluntary allotments authorized by 5 U.S.C. 8345(h).

cc. To disclose to a State agency responsible for the collection of State income taxes the information required by an Agreement to Implement State Income Tax Withholdings from Civil Service Annuities entered pursuant to section 1705 of Pub. L. 97-35 to implement the program of voluntary State income tax withholding required by 5 U.S.C. 8345(k).

dd. To disclose to the Social Security Administration, the social security

numbers of civil service annuitants to determine (1) their vital status as shown in the Social Security Administration Master Records; (2) whether recipients of the minimum annuity are receiving at least the Special Primary Insurance Amount benefit from the Social Security Administration; and (3) whether civil service retirees with post-1956 military service credit are receiving benefits from the Social Security Administration.

ee. To disclose to a requesting agency, organization, or individual, the home address and other relevant information on those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from, a health hazard while employed in the Federal work force to protect the health and safety of the affected employees.

ff. To disclose information contained in the Retirement Annuity Master File; including the name, social security number, date of birth, sex, the Office's claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and ZIP code, of all Federal retirees to agencies participating in the "Federal Employees Receiving Government Assistance" Matching Project conducted by the President's council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit programs administered by agencies within the Federal Government and to collect debts and overpayments owed to the Federal Government. (47 FR 8438, February 26, 1982.)

gg. To disclose information contained in the Retirement Annuity Master File, including the name, social security number, date of birth, sex, the Office's claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and ZIP code, of all Federal retirees and their survivors to requesting States to help eliminate fraud and abuse in the benefit programs administered by the States (and by those States to local governments) and to collect debts and overpayments owed to those governments and their components. (48 FR 12628, March 25, 1983).

hh. To disclose to a Fedeeral agency, a person or an organization contracting with a Federal agency for rendering collection services within the purview of section 13 of the Debt Collection Act of 1982, in response to a written request from the head of the agency or his or her designee, or from the debt collection contractor, the following data concerning an individual owing a debt to the Federal Gevernment: (1) The debtor's name, address, social security number, and other information necessary to establish the identity of the individual; (2) the amount, status, and history of the claim; and (3) the agency or program under which the claim arose.

ii. To disclose information contained in the Retirement Annuity Master File, upon written request, to state tax administration agencies, for the express purpose of ensuring compliance with state tax obligations by persons receiving benefits under the Civil Service Retirement System, and to prevent fraud and abuse, but only the following data elements: name, correspondence address, date of birth, sex, social security account number, annuity rate, commencing date of benefits, and retirement code (type of retirement).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on magnetic tapes, discs, and in folders.

RETRIEVABILITY:

These records are retrieved by the name, social security number, date of birth, and/or claim number of the individual to whom they pertain.

SAFEGUARDS:

Records are kept in lockable metal file cabinets or in a secured facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

All records on a claim for retirement, life insurance, health benefits, and tax withholdings are maintained permanently. Medical suitability records are maintained for 18 months. Requests for review of health benefits claims are maintained up to 3 years. Disposal of manual records is by shredding or burning; magnetic tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.
b. Date of birth.
c. Social security number.
d. Name and address of office in which currently and/or formerly employed in the Federal service.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records in this system should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.
b. Date of birth.
c. Social security number.
d. Name and address of office in which currently and/or formerly employed in the Federal service.
e. Annuity, service credit, or voluntary contributions, account number, if assigned.

Individuals requesting access must also follow the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURE:

Individuals wishing to request amendment of their records in this system should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including former names.
b. Date of birth.
c. Social security number.
d. Name and address of office in which currently and/or formerly employed in the Federal service.
e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains.
b. Agency pay, leave, and allowance records.
c. GSA National Personnel Records Center.

d. Federal civilian retirement systems.
e. Military retired pay system records.
f. Office of Workers' Compensation Benefits Program.
g. Veterans Administration Pension Benefits Program.
h. Social Security Old Age, Survivor, and Disability Insurance and Medicare Programs.
i. Health insurance carriers and plans participating in the Federal Employee Health Benefits Programs.
j. The Office of Federal Employees Group Life Insurance.
k. Office of Personnel Management Government-wide System (OPM/GOVT-1) covering Official Personnel Folders.
l. The individual's co-workers and supervisors.
m. Physicians who have examined or treated the individual.

OPM/CENTRAL-6

SYSTEM NAME:

Adminstrative Law Judge Application Records.

SYSTEM LOCATION:

Assistant Director Office of Administrative Law Judges, Staffing Group, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Administrative Law Judge positions in the Federal service or who are employees or former employees in Administrative Law Judge positions in the Federal service.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information on the education and training, employment history and earning, appraisals of past performance, convictions for offenses against the law, results of written tests, appraisals of potential, rating and ranking determinations and appeals of such determinations, honors, awards, or fellowships, and other background and biographical data on persons who are or were employees in Administrative Law Judge positions in the Federal service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1305, 3105, and 3344.

PURPOSES:

These records serve as a basis for rating and ranking applicants for Administrative Law Judge positions in the Federal service, documenting the rating and ranking assigned, processing an appeal of a rating or ranking determination, and referring the ranked candidates to Federal agencies for employment consideration. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

a. To refer applicants to Federal agencies for employment consideration for Administrative Law Judge positions.

b. To refer current and former Administrative Law Judges to Federal agencies for consideration for detail, transfer, reassignment, reinstatement, or reemployment, as applicable.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to any source (e.g., references, employers, educational institutions or applicant/appellant review panel members) from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To disclose information 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 conducting of a security or suitability investigation of an individual, the classifying of jobs, 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 on the matter.

f. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

g. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

h. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. By the Office in the production of summary descriptive statistics and analytical studies to support the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

l. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer disks, cards, lists, forms, and in file folders.

RETRIEVABILITY:

Records are retrieved by the name and social security number of the individual to whom they pertain.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained for 7 years. Expired records are shredded or burned.

SYSTEM(S) MANAGER AND ADDRESS:

Assistant Director, Office of Administrative Law Judges, Staffing Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified.

a. Full name and date of birth.

b. Social security number.

RECORD ACCESS PROCEDURE

Specific materials in this system have been exempted from Privacy Act requirements at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled "Systems Exempted from Certain Provisions of the Act," indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to other non-exempt records about them should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified.

a. Full name and date of birth.

b. Social security number.

An individual requesting access must also follow the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act requirements regarding amendment of records at 5 U.S.C. 552a(d). The section of this notice titled "Systems Exempted from Certain Provisions of the Act," indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of other non-exempt records should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified.

a. Full name and date of birth.

b. Social security number.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information he or she supplied, except for information on vouchers or otherwise provided that is:

a. Supplied by references, employers, or educational institutions listed by the applicant; or

b. Supplied by other sources whom the Office believes have information relevant to a decision regarding the qualifications, ratings, or ranking of the applicant or appellant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempt to the extent that the release of the material to the individual whom the information is about would:

a. Reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or

b. Reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

For material in this system meeting these criteria, the Office has claimed the (k)(5) exemption from the following provisions of the Act:

a. 5 U.S.C. 552a(c)(3)—This provision concerns providing an accounting of disclosures to the individual whom the records are about;

b. 5 U.S.C. 552a(d)—This provision regards access to and amendment of records.

This system contains testing and examining materials used solely to determine individual qualifications for appointment in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing and examining material and information, when the disclosure of the material would compromise the objectivety or fairness of the testing or examination process. The Office has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which related to access to and amendment of records.

OPM/GOVT-1

SYSTEM NAME:

General Personnel Records.

SYSTEM LOCATION:

Records on current Federal employees are located at the Office and with Personnel Officers or other designated offices of the local installation of the department or agency that currently employes the individual. When agencies determine that duplicates of these records need to be located in a second office, e.g., an administrative office closer to where the employee actually works, such copies are covered by this system. Former Federal employees' Official Personnel Folders (OPF) are located at the National Personnel Records Center, General Services Administration, 111 Winnebago Street, St. Louis, Missouri 63118. Records not considered records, but which may be retained in the OPF or elsewhere during employment, and which are also included in this system, may be retained by agencies for a period of time after the employee leaves service.

The use of the phrase "long-term" to describe right-hand-side OPF records is used throughout since these records are not actually permanently retained. The term "temporary" is used when referencing left-hand-side OPF records and all other records not filed in the OPF but covered by this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees as defined in 5 U.S.C. 2105.

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records may include identifying information, such as name(s), date of birth, home residence, mailing address, social security number, and home telephone. This system includes contents of the OPF as specified in Federal Personnel Manual Supplement 293-31. Records in this system are:

a. Records reflecting work experience, educational level achieved, and specialized education or training obtained outside of Federal service.

b. Records reflecting Federal service and documenting work experience and specialized education or training received while employed. Such records

contain information about: Past and present positions held; grades; salaries; duty station locations; and notices of all personnel actions such as appointments, transfers, reassignments, details, promotions, demotions, reductions-in-force, resignations, separations, suspensions, Office approval of disability retirement applications, retirement, and removals.

c. Records on enrollment or declination of enrollment in the Federal Employees Group Life Insurance Program and Federal Employee Health Benefit programs, as well as forms showing designation of beneficiary.

d. Records of a medical nature, including records compiled during an agency initiated fitness-for-duty examination or request for approval of disability retirement. Such medical records are to be retained in separate envelopes from the OPF and include records of medical examination that are to remain as a long-term record in the OPF (see "Retention and Disposal" section).

Note.—This system does not cover agency dispensary or patient treatment records or records of drug or alcohol abuse counseling or other such counseling records, nor does it include performance appraisal and related documents maintained in an envelope in the OPF or filed on the left side of an OPF. These latter records are covered by the OPM/GOVT-2, Employee Performance File System Records.

e. Records relating to an Intergovernmental Personnel Act assignment or Federal-private sector exchange program.

Note.—Some of these records may also become part of the OPM/CENTRAL-7 Intergovernmental Personnel Act Assignment of Records System.

f. Records relating to participation in an agency Federal Executive or SES Candidate Development Program.

Note.—Some of these records may also become part of the OPM/CENTRAL-3 Federal Executive Development Records or OPM/CENTRAL-13 Senior Executive Service Records systems.

g. Records relating to Government-sponsored training or participation in an agency's Upward Mobility Program or other personnel programs designed to broaden an employee's work experiences and for purposes of advancement (e.g., an administrative intern program).

h. Records contained in the Central Personnel Data File (CPDF) maintained by the Office and exact substantive representations in agency manual or automated personnel information systems. These data elements include many of the above records along with handicap and race and national origin codes. A definitive list of CPDF data elements is contained in Federal Personnel Manual Supplement 292-1.

i. Records on the Senior Executive Service (SES) maintained by agencies for use in making decisions affecting incumbents of these positions, e.g., relating to sabbatical leave programs, training, reassignments, and details, that are perhaps unique to the SES and that may be filed in the employee's OPF. These records may also serve as the basis for reports submitted to the Office's Workforce Effectiveness and Development Group for implementing the Office's oversight responsibilities concerning the SES.

j. Records on an employee's activities on behalf of the recognized labor organization representing agency employees, including accounting of official time spent and documentation in support of per diem and travel expenses.

Note.—Alternatively, such records may be retained by an agency payroll office and thus subject to the agency's internal Privacy Act system for payroll records. The OPM/GOVT-1 system does not cover general agency payroll records.

k. To the extent that the records listed here are also maintained in an agency automated personnel or microform records system, those versions of these records are considered to be covered by this system notice. Any additional copies of these records (excluding performance appraisal and conduct-related documents maintained by first line supervisors and managers covered by the OPM/GOVT-2 system) maintained by agencies at field/administrative offices remote from where the original records exists are considered part of this system.

Note.—It is not the intent of the Office to limit this system of records only to those physically within the OPF. Records may be filed in other folders located in offices other than where the OPF is located. Further, as indicated in the records location section, some of these records may be duplicated for maintenance at a site closer to where the employee works (e.g., in an administrative office or supervisors work folder) and still be covered by this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347, and Excecutive Orders 9397, 9830, and 12107.

PURPOSES:

The OPF and other general personnel records files are the official repository of the records, reports of personnel actions, and the documents and papers required in connection with these actions effected during an employee's Federal service. The personnel action reports and other documents, some of which are filed as long-term records in the OPF, give legal force and effect to personnel transactions and establish employee rights and benefits under pertinent laws and regulations governing Federal employment.

These files and records are maintained by OPM and the agencies for the Office in accordance with Office regulations and instructions. The OPF is maintained for the period of the employee's service in the agency and is then transferred to the National Personnel Records Center for storage or, as appropriate, to the next employing Federal agency. Other records are either retained at the agency for various lengths of time in accordance with General Services Administration records schedules or destroyed when they have served their purpose or when the employee leaves the agency. They provide the basic source of factual data about a person's Federal employment while in the service and after his or her separation. Records in this system have various uses by agency personnel offices, including screening qualifications of employees: determining status, eligibility, and employee's rights and benefits under pertinent laws and regulations governing Federal employment; computing length of service; and other information needed to provide personnel services. These records and their automated or microform equivalents may also be used to locate individuals for personnel research.

Temporary documents on th left side of the OPF may pertain to a formal action but do not constitute a record of it nor make a substantial contribution to the employee's long-term record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes.

b. To discuss information to educational institutions on appointment of a recent graduate to a position in the Federal service, and to provide colleges and university officials with information about their students working under Cooperative Education, Volunteer Service, or other similar programs necessary to a student's obtaining credit for the experience gained.

c. To disclose information to officials of foreign governments for clearance before a Federal employee is assigned to that country.

d. To disclose information to: the Department of Labor, Veterans Administration, Social Security Administration, Department of Defense, Federal agencies that have special civilian employee retirement programs; or a national, State, county, municipal, or other publicly recognized charitable or income security administration agency (e.g., State unemployment compensation agencies), where necessary to adjudicate a claim under the retirement, insurance or health benefits programs of the Office or an agency cited above, or to an agency to conduct an analytical study or audit of benefits being paid under such programs.

e. To disclose to the Office of Federal Employees Group Life Insurance, information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

f. To disclose to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination or audit of benefit provisions of such contracts.

g. To disclose information to a Federal, State, or local agency for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs.

h. To consider and select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

i. To consider employees for recognition through quality step increases, and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition.

j. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefits.

m. To disclose to an agency in the executive, legislative, or judicial branch, or the District of Columbia's Government in response to its request, or at the initiation of the agency maintaining the records, information in connection with the hiring of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, the issuance of a license, grant, or other benefits by the requesting agency, or the lawful statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision.

n. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

o. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

p. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. By the agency maintaining the records or by the Office to locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

s. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

t. When an individual to whom a record pertains is mentally incompetent or under other legal disability information in the individual's record may be disclosed to any person who is responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

u. To disclose to the agency-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee, in connection with an examination ordered by the agency under:

(1) Fitness-for-duty examination procedures; or

(2) Agency-filed disability retirement procedures.

v. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

w. To disclose to a requesting agency, organization, or individual the home address and other relevant information on those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal work force.

x. To disclose specific civil service employment information required under law by the Department of Defense on individuals identified as members of the Ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

y. To disclose information to the Department of Defense, National Oceanic and Atmospheric Administration, U.S. Public Health Service, Veterans Administration, and the U.S. Coast Guard needed to effect any adjustments in retired or retained pay required by the dual compensation provisions of section 5532 of title 5, United States Code.

z. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

aa. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

bb. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator's awards when a question of material fact is raised and matters before the Federal Service Impasses Panel.

cc. To disclose to prospective non-Federal employers, the following information about a specifically identified current or former Federal employee:

(1) Tenure of employment;

(2) Civil service status;

(3) Length of service in the agency and the Government; and

(4) When separated, the date and nature of action as shown on the Notification of Personnel Action—Standard Form 50 (or authorized exception).

dd. To disclose information on employees of Federal health care facilities to private sector (i.e., other than Federal, State, or local governments) agencies, boards, or commissions (e.g., the Joint Commission on Accreditation of Hospitals). Such disclosures will be made only when the disclosing agency determines that it is in the Government's best interest (e.g., to assist in the recruiting of staff in the community where the facility operates or to avoid any adverse publicity that may result from public criticism of the facility's failure to obtain such approval) to obtain accreditation or other approval rating and only to the extent that the information disclosed is relevant and necessary for that purpose.

ee. To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases) when the member is not an official of the employing agency; information would then be used for approving or recommending selection of candidates for executive development or SES candidate programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.

ff. To disclose information to the Federal Acquisition Institute (FAI) about Federal employees in procurement occupations and other occupations whose incubents spend the predominant amount of their work hours on procurement tasks; provided that the FAI shall only use the data for such purposes and under such conditions as prescribed by the notice of the Federal Acquisition Personnel Information System as published in the Federal Register of February 7, 1980 (45 FR 8399).

gg. To disclose information contained in the CPDF including the name, social security number, date of birth, sex, annual salary, service computation date of basic active service date, separation or retirement date, veteran's preference, retirement status, oocupational series, position occupied, work schedule (full time, part time, or intermittent), agency identifier, geographic location (duty station location), standard metropolitan statistical area, special program identifier, and submitting office number of all Federal employees to agencies participating in the "Federal Employee Receiving Government Assistance" Matching Program conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit program administered by agencies within the Federal Government and to collect debts and overpayments owed to the Federal Government.

hh. To disclose information contained in the CPDF including the name, social security number, date of birth, sex, annual salary, separation or retirement date, retirement status, occupational series, position occupied, work schedule (full time, part time, intermittent), agency identifier, geographic location (duty station location), metropolitan statistical area, special identifier, and submitting office number of Federal employees to requesting States (and, upon specific approval, by those States to local governments) for use in computer matching to help eliminate fraud and abuse in the benefit programs administered by the States and to collect debts and overpayments owed to those governments and their components.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, on lists and forms, microfilm or microfiche, and in computer processible storage media.

RETRIEVABILITY:

These records are retrieved by various combinations of name, birth date, social security number, or identification number of the individual on whom they are maintained.

SAFEGUARDS:

Paper or microfiche/microfilmed records are located in locked metal file cabinets or in secured rooms with access limited to those personnel whose official duties require access. Access to computerized records is limited, through use of access codes and entry logs, to those whose official duties require access.

RETENTION AND DISPOSAL:

a. Long-term Records. The OPF is retained by the employing agency as long as the individual is employed with that agency. Medical records are kept separately from the OPF while the individual is employed by an agency. When the individual transfers to another Federal agency or to another appointing office, the OPF, with the long-term medical records inserted in a separate envelope, is sent to that agency or office. Other medical records covered by this system; i.e., fitness-for-duty examinations, are considered temporary in nature. Such records, when not submitted to the Office for retention in a disability retirement file (or submitted, but the Office does not approve retirement), shall be destroyed no later than 6 months after closing action on the case or sooner at the discretion of the agency.

Within 90 days after the individual separates from the Federal service, the OPF is sent to the National Personnel Records Center for long-term storage. In the case of administrative need, a retired employee, or an employee who dies in service, the OPF is sent to the Record Center within 120 days.

Destruction of the OPF is in accordance with General Records Schedule (GRS) 1.

b. Other Records. These records are retained for varying periods of time. Generally they are maintained for a minimum of 1 year or until the employee transfers or separates.

c. Records contained on computer processible media within the CPDF (and in agency's automated personnel records) may be retained indefinitely as a basis for longitudinal work history statistical studies. After the disposition date in GRS-1, such records may not be used in making decisions concerning employees.

SYSTEM MANAGERS AND ADDRESS:

Assistant Director for Workforce Information, Compliance and Investigations Group, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate Office or employing agency office, as follows:

a. Current Federal employees should contact the Personnel Officer or other responsible official (as designated by the employing agency), of the local agency installation at which employed regarding records in this system.

b. Former Federal employees should contact one of the Office's regional or area offices (see list of regional office addresses in the Appendix), or, as explained in the Note below, the National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118, regarding the records in this system.

Individuals must furnish the following information for their records to be located and identified.

a. Full name(s).

b. Date of birth.

c. Social security number.

d. Last employing agency (including duty station) and approximate date(s) of the employment (for former Federal employees).

e. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the appropriate OPM or agency office, as specified in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified.

a. Full name(s).

b. Date of birth.

c. Social security number.

d. Last employing agency (including duty station) and approximate date(s) of employment (for former Federal employees).

e. Signature.

Individuals requesting access must also comply with the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

Note. An individual who is a former Federal employee may direct a request to the National Personnel Records Center (NPRC) for a copy of a specific OPF document or for a transcript of his or her own employment history complied from documents in the OPF. The transcript includes the individual's name; date of birth; social security number; all past grades held, position titles, duty stations, and salaries; and dates of personnel actions.

Under no circumstances shall an individual direct a request to NPRC for access to copies of all records maintained in his or her OPF. Though NPRC stores and services the OPF's of former Federal employees covered by this system, that record remains the property of the Office, and such requests will be handled and processed by the OPM office nearest to where the requester lives. (See list of OPM regional office addresses in the Appendix).

CONTESTING RECORD PROCEDURE:

Current employees wishing to request amendment of their records should contact their current agency. Former employees should contact the system manager and not the Office. Individuals must furnish the following information for their records to be located and identified.

a. Full name(s).

b. Date of birth.

c. Social security number.

d. Last employing agency (including duty station) and approximate date(s) of employment (for former Federal employees).

e. Signature.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR 297.201 and 297.208).

Note. Under no circumstances shall former employees direct a request for amendment to records in the OPF to the NPRC or to the Office's regional or area offices. NPRC only stores and services the OPF's on former Federal employees covered by this system, and the Office's regional or area offices process only access requests. Processing under the amendment provisions of the Privacy Act will be handled only by the system manager.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the record is maintained.

b. Physicians examining the individual.

c. Educational institutions.

d. Agency officials and other individuals or entities.

e. Other sources of information for long-term records maintained in an employee's OPF, in accordance with Federal Personnel Manual, Chapter 293.

OPM/GOVT-2

SYSTEM NAME:

Employee Performance File System Records.

SYSTEM LOCATION:

Records maintained in this system may be located as follows:

a. In an Employee Performance File (EPF) maintained in the agency office responsible for maintenance of the employee's Official Personnel Folder (OPF) or other agency-designated office. This includes those instances where the agency uses an envelope within the OPF in lieu of a separate EPF folder.

b. In the EPF of Senior Executive Service (SES) appointees where the agency elects to have the file maintained by the Performance Review Boards required by 5 U.S.C. 4314(c)(1), or the administrative office supporting the Board.

c. In any supervisor/manager's work folder maintained in the office by the employee's immediate supervisor/manager or, where agencies have determined that records management is better served, in such folders maintained for supervisors/managers in a central administrative office.

d. In an agency's automated personnel records system.

e. In an agency microformed EPF.

Note.—Originals or copies of records covered by this system may be located in more than one location, but if they become part of an agency internal system (e.g., administrative or negotiated grievance file), those copies then would be subject to the agency's internal Privacy Act implementation guidance insofar as they are used within the agency's system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees (including SES appointees). Records on former non-SES employees will generally be retained no longer than 1 year after the employee leaves his or her employing agency. Records on former SES employees may be retained up to 5 years under 5 U.S.C. 4314.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system, wherever they are maintained, may include any or all of the following:

a. Annual summary performance appraisals issued under employee (including SES and Merit Pay) appraisal systems and any document that

indicates that the appraisal is being challenged under administrative procedures (e.g., when the employee files a grievance on the appraisal received).

b. A document (either the summary appraisal form itself or a form affixed to it) that identifies the job elements and the standards for those elements upon which the appraisal is based.

c. Supporting documentation for employee appraisals, as required by agency appraisal systems or implementing instructions, and which may be filed physically with the appraisal of record (e.g., productivity and quality control records, records of employee counseling, individual development plans, or other such records as specified in agency issuances and maintained; e.g., in a work folder by supervisors/managers at the work site).

d. Records on SES appraisals generated by Performance Review Boards; including statements of witnesses and transcripts of hearings.

e. Written recommendations for awards, removals, demotions, denials of within-grade increases, reassignments, training, pay increases, cash bonuses, or other performance-based actions (e.g., nominations of SES employees for Meritorious or Distinguished Executive), including supporting documentation.

f. Statements made (either on or appended to the performance appraisal document) by the employee (e.g., a statement of disagreement with the appraisal or recommendation), in accordance with agency performance appraisal plans and implementing instructions, regarding an appraisal given and any recommendations made based on them.

Note.—When a recommendation by a supervisor/manager or a statement made by the employee regarding the appraisal issued (or copy thereof) becomes part of another Government-wide system or internal agency file (e.g., an SF 52 filed in an OPF when the action is effected or when documents or statements of disagreement are placed in a grievance file), that document then becomes subject to that system's notice and appropriate Office or employing agency Privacy Act requirements, respectively, for the system of records covering that file.

g. Records created by Executive Resource Boards regarding performance of an individual in an executive development program.

h. Records needed to support removal for unsatisfactory performance during the supervisory or managerial probationary period, the SES appointment probationary period, or the employee's initial period of probation after appointment.

i. Notices of commendations (which are not considered a permanent OPF document), recommendations for training, such as an Individual Development Plan, and advice and counseling records that are based on work performance.

j. Copies of supervisory appraisals uses in considering employees for promotion or other position changes originated in conjunction with agency merit promotion programs when specifically authorized for retention in the EPF or work folder.

k. Performance-related material that may be maintained in the work folder to assist the supervisor/manager in accurately assessing employee performance. Such material may include transcripts of employment and training history, documentation of special licenses, certificates, or authorizations necessary in the performance of the employee's duties, employee locator information, information regarding specific employee problems, and other such records that agencies determine to be appropriate for retention in the work folder.

1. Standard Form 7B cards.

Note.—To the extent that performance records covered by this system are maintained in either an EPF, supervisor/manager work folder, or an agency's automated or micoform record system, they are considered covered under this system of records. Further, when copies of records filed in the employee's OPF are maintained as general records related to performance (item k. above), those records are to be considered as being covered by this system and not the OPM/GOVT-1 system.

This notice does *not* cover these records (or copies) when they become part of a grievance file or 5 CFR Parts 432, 752, or 754 file (documents maintained in these files are covered by the OPM/GOVT-3 system of records, while grievance records are covered under an agency-specific system), or when they become part of an appeal or discrimination complaint file as such documents are considered to be part of either the system of appeal records under the control of the Merit Systems Protection Board (MSPB) or discrimination complaints files under the control of the Equal Employment Opportunity Commission (EEOC).

When an agency retains copies of records from this system in another system or records, not covered by this or another OPM, MSPB, or EEOC Government-wide system notice, the agency is solely responsible for responding to any Privacy Act issues raised concerning these documents.

The Office has adopted a position that when supervisors/managers retain personal "supervisory" notes, i.e., information on employees that the agency exercises no control and does not require or specifically describe in its performance appraisal system, which remain solely for the personal use of the author and are not provided to any other person, and which are retained or discarded at the author's sole discretion, such notes are not subject to the Privacy Act and are, therefore, not considered part of this system. Should an agency choose to adopt a positon that such notes are subject to the Act, that agency is solely responsible for dealing with Privacy Act matters, including the requisite system notice, concerning them.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1104, 3321, 4305, and 5405 of title 5, U.S. Code, and Executive Order 12107.

PURPOSE:

These records are maintained to ensure that all appropriate records on an employee's performance are retained and are available: (1) To agency officials having a need for the information; (2) to employees; (3) to support actions based on the records; (4) for use by the Office in connection with its personnel management evaluation role in the executive branch; and (5) to identify individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. To disclose information to officials of the MSPB, including the Office of Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and other functions as promulgated in 5 U.S.C. 1205, 1206, and 1209 or for such other functions as may be authorized by law.

b. To disclose information to the EEOC when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal Affirmative Action programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

c. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with the

investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator's awards where a question of material fact is raised, and matters before the Federal Service Impasses Panel.

d. To consider and select employees for incentive awards, quality step increases, merit pay or other pay bonuses, and other honors and to publicize those granted. This may include disclosure to public and private organizations, including news media, which grant or publicize employee awards or honors.

e. To disclose information to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.

f. To disclose to an agency in the executive, legislative, or judicial branch, or to the District of Columbia's Government in response to its request, or at the initiation of the agency maintaining the records, information in connection with: The hiring or retention of an employee; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract; the issuance of a license, grant, or other benefits by the requesting agency; or the lawful statutory, administrative, or investigative purposes of the agency to the extent that the information is relevant and necessary to the decision on the matter.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

h. to provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

i. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

j. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

k. By the Office or employing agency to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies to support the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

l. To disclose pertinent information to the appropriate Federal (including offices of Inspector General), State, or local government agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the agency maintaining the record becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

m. To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for approving or recommending performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, envelopes, and on magnetic tapes, disks, microfilm, or microfiche.

RETRIEVABILITY:

Records are retrieved by the name and social security number of the individual on whom they are maintained

SAFEGUARDS:

Records are maintained in file folders or envelopes, on magnetic tape, disks, or microforms and are stored in locked desks, metal filing cabinets, or in a secured room with access limited to those whose official duties require access. Additional safeguarding procedures include the use of sign-out sheets and restrictions on the number of employees able to access automated records through use of access codes and logs.

RETENTION AND DISPOSAL:

a. Summary performance appraisals (and related records as the agency prescribes) on SES appointees are retained for 5 years and on other employees for 3 years, except as shown in b below, and are disposed of by shredding, burning, erasing of disks, or in accordance with agency procedures regarding destruction of personnel records, including giving them to the data subject.

b. Appraisal of unacceptable performance and related documents, pursuant to 5 U.S.C. 4303(d), are destroyed after the employee completes 1 year of acceptable performance from the date of the proposed removal or reduction-in-grade notice. (Destruction to be no later than 30 days after the year is up.)

c. When a career appointee in the SES accepts a Presidential appointment pursuant to 5 U.S.C. 3392(c), the employee's performance folder remains active so long as the employee remains employed under the Presidential appointment and elects to have certain provisions of 5 U.S.C. relating to the Service apply.

d. When an incumbent of the SES transfers to another position in the Service, either with the same or a different agency, all performance documents 5 years old or less are transferred in the performance folder or envelope with the individual's OPF.

e. Some performance-related records (e.g., documents maintained to assist rating officials in appraising performance or recommending remedial actions or to show that the employee is currently licensed or certified) may be destroyed after 1 year.

f. Where any of these documents are needed in connection with administrative or negotiated grievance procedures, or quasi-judicial or judicial proceedings, they may be retained as needed beyond the retention schedules identified above.

g. Generally, agencies retain records on former employees for no longer than 1 year after employee leaves.

Note.—When an agency retains an automated or microform version of any of the above documents, retention of such records longer than shown is permitted (except for those records subject to 5 U.S.C. 4303(d)) for agency use or for historical or statistical analysis, but only so long as the record is not used in a determination directly affecting the individual about whom the record pertains (after the manual record has been or should have been destroyed).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Workforce Information, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individual wishing to inquire whether this system contains information about them should contact their servicing personnel office, supervisor/manager, Performance Review Board office, or other agency designated office maintaining their performance-related records where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name(s).

b. Social security number.

c. Position occupied and unit where employed.

RECORDS ACCESS PROCEDURE:

Individuals wishing access to their records should contact the appropriate office indicated in the Notification Procedure section where they are or were employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name(s).

b. Social security number.

c. Position occupied and unit where employed.

Individuals requesting access to records must also comply with the Office's Privacy Act regulations or verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment to their records should contact the appropriate office indicated in the Notification Procedure section where they are or where employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name(s).

b. Social security number.

c. Position occupied and unit where employed.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORDS SOURCE CATEGORIES:

Records in this system are obtained from:

a. Supervisors/managers.

b. Performance Review Boards.

c. Executive Resource Boards.

d. Other individuals or agency officials.

e. Other agency records.

f. The individual about whom the records pertain.

OPM/GOVT-3

SYSTEM NAME:

Records of Adverse Actions and Actions Based on Unacceptable Performance.

SYSTEM LOCATION:

These records are located in personnel or designated offices in Federal agencies in which the actions were processed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Federal employees (including Senior Executive Service (SES) employees) against whom such an action has been proposed or taken in accordance with Parts 432, 752, or 754 of the Office's regulations (5 CFR Parts 432, 752, or 754).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records and documents on the processing of adverse actions and actions based on unacceptable performance. The records include copies of the notice of proposed action, materials relied on by the agency to support the reasons in the notice, replies by the employee, statements of witnesses, hearing notices, reports, and agency decisions.

Note.—This system does not include records, including the action file itself, compiled when such actions are appealed to the Merit Systems Protection Board (MSPB) or become part of a discrimination complaint record at the Equal Employment Opportunity Commission (EEOC). Such appeal and discrimination complaint file records are covered by the appropriate MSPB or EEOC system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4303, 7504, 7514, and 7543.

PURPOSE:

The records result from the proposal, processing, and documentation of these actions either taken by the Office or agencies against employees in accordance with Parts 432, 752, or 754 of the Office's regulations (5 CFR Parts 432, 752, or 754).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in records may be used:

a. To provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, presecuting, enforcing, or implementing a 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.

c. To disclose information to any source from which additional information is requested for processing any of the covered actions or in regard to any appeal or administrative review procedure, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

d. To disclose information 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 conducting of a security or suitability investigation of an individual, or the classifying of jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. By the agency maintaining the records or the Office to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To disclose information to officials of the MSPB, including the Office of the Special Counsel, when requested in

connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. To disclose information to the EEOC when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

l. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

m. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties of reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

n. To disclose information to private sector (i.e., non-Federal, State, or local governments) agencies, organizations, boards, bureaus, or commissions. Such disclosures may be made only when the disclosing agency determines that: (1) The records are properly constituted in accordance with the Office or employing agency requirements; (2) the records are accurate, relevant, timely, and complete; and (3) the disclosure is in the best interests of the Government. When the agency's cooperation with the private sector entity, through the exchange of individual records, directly benefits the agency's completion of its mission, enhances the agency's personnel management functions, or increases the public confidence in the agency's or the Federal Government's role in the community, then the Government's best interests are served. Further, only such information that is clearly relevant and necessary for accomplishing the intended uses of the information as certified by the receiving private sector entity, are to be furnished.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, in automated media, or on microfiche or microfilm.

RETRIEVABILITY:

These records are retrieved by the names and social security number of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Records documenting an adverse action or a performance-based removal or demotion action are disposed of 4 years after the closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Planning and Evaluation. Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415 for actions taken under Parts 432, 752 (Subparts A through D only), and 754. Associate Director, Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415 for actions taken against SES appointees under Subparts E and F, Part 752.

NOTIFICATION PROCEDURE:

Individuals receiving notice of a proposed adverse, removal, or demotion action must be provided access to all documents supporting the notice. At any time thereafter, individuals subject to the action will be provided access to the complete record. Individuals should contact the agency personnel or designated office where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURE:

Individuals whom such actions are taken must be provided access to the record. However, after the action has been closed, an individual may request access to the official copy of an adverse or performance-based action file by contacting the agency personnel or designated office where the action was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Review of requests from individuals seeking amendment of their records that have or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the agency personnel or designated office where the actions were processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

OPM/GOVT-4

SYSTEM NAME:

Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records.

SYSTEM LOCATION:

Director, Office of Government Ethics, Office of Personnel Management, 1717 H Street, NW, Washington, D.C. 20419, and designated agency ethics offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on: The President, Vice President, and candidates for those offices; officers and employees, including special

Government employees, whose positions are classified at grades GS–16 and above or at an equivalent rate under another pay schedule; individuals who are classified at GS–16 and above or in equivalent positions who provide staff functions in support of an advisory committee composed of at least one special Government employee; officers or employees in a position determined by the Director of the Office of Government Ethics to be of equal classification to GS–16; Administrative Law Judges; excepted service employees in positions that are of a confidential or policymaking nature unless an employee or groups of employees are exempted by the Director of the Office of Government Ethics; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 31, United States Code; the Postmaster General, the deputy Postmaster General, Governor of the Board of Governors of the U.S. Postal Service and each officer or employee of the U.S. Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; the Director of the Office of Government Ethics and officials designated to act as agency ethics officers (designated agency ethics officials); and nominees for positions requiring Senate confirmation. This system includes both former and current employees in these categories who have filed financial disclosure statements under the requirements of the Ethics in Government Act of 1978, as amended, or who otherwise come under the requirements of the Act. For administering all provisions of the Ethics in Government Act of 1978, as amended, the system may contain information on any officer or employee of the executive branch.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains: Financial information such as salary, dividends, receipts from the purchase or sale of land, exchange of property, spouse's and children's interest earnings, funds from trust accounts, gifts, reimbursements, interest on property, and compensation for duties performed; information on liabilities in excess of $10,000; information about positions as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business, non-profit organization, labor organization, or educational institution; information about non-Government employment agreements, such as leaves of absence to accept Federal service, continuation of payments by non-Federal former employers, and participation in prior non-Federal employer welfare and benefit plans; and information about assets placed in trust pending disposal; and other documents developed by the Director of the Office of Government Ethics, or agency ethics officials in administering the Ethics in Government Act of 1978, as amended. Such other documents may include, but will not be limited to, information necessary for the rendering of advice or formal advisory opinions, or the resolution of complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–521, Ethics in Government Act of 1978, as amended.

PURPOSE:

These records are maintained to meet the requirements of the Ethics in Government Act of 1978, Pub. L. 95–521, as amended, regarding the filing of financial status reports and reports concerning certain agreements between the covered individual and any prior private sector employer. Such statements and related records are required to assure compliance with the Act and to preserve and promote the integrity of public officials and institutions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose any and all of the information furnished by the reporting official, in accordance with provisions of section 205 of the Ethics in Government Act of 1978, to any requesting person.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

d. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

e. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, automated media, or on microfiche or microfilm.

RETRIEVABILITY:

These records are retrieved by the name and social security number of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are generally maintained for a period of 6 years after filing, except when filed by a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed and Presidential and Vice-Presidential candidates who are not elected. In these cases, the record is destroyed 1 year after the date the individual ceased being under Senate consideration for appointment or is no longer a candidate for office. Destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of Government Ethics, Office of Personnel Management, 1717 H Street, NW, Washington, DC 20419.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact, as appropriate:

a. For records filed directly with the Office of Government Ethics, contact the system manager.

b. For records filed with designated agency ethics officials or the Secretary concerned, contact the designated agency ethics official or Headquarters, department or agency, Wasington, DC (ZIP code).

c. For records filed with the Federal Election Commission by candidates for President or Vice President, contact the Staff Director, Federal Election Commission, 1325 K Street, NW, Washington, DC 20463.

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office listed above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the appropriate office as shown in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed or proposed to be employed.

Individuals requesting access to information not generally available to the public under the Act, must also comply with the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate office shown in the Notification Procedure section.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person, such as a trustee, attorney, accountant, or relative.

b. Federal officials who review the statements to make conflict of interest determinations.

c. Persons alleging conflict of interests and persons contacted during any investigation of the allegations.

OPM/GOVT-5

Recruiting, Examining, and Placement Records.

SYSTEM LOCATION:

Associate Director, Staffing Group, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415, OPM regional and area offices (see list of OPM regional office addresses in the Appendix), and personnel or other designated offices of Federal agencies that are authorized to make appointments and to act for the Office by delegated authority.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied to the Office or agencies for Federal employment and current and former Federal employees submitting applications for other positions in the Federal service.

CATEGORIES OF RECORDS IN THE SYSTEM:

In general, all records in this system contain identifying information including: Name, date of birth, social security number, and home address. These records pertain to assembled and unassembled examining procedures and contain information on both competitive examinations and to certain noncompetitive actions, such as determinations of time-in-grade restriction waivers, waiver of qualification requirement determinations, and variations in regulatory requirements in individual cases. This system includes such records as:

a. Applications for employment that contain information on work and education, military service, convictions for offenses against the law, military service, and indications of specialized training or receipt of awards or honors. These records may also include copies of correspondence between the applicant and the Office or agency.

b. Results of written exams and indications of how information in the application was rated. These records also contain information on: the ranking of an applicant, his or her placement on a list of eligibles, what certificates applicant's names appeared, an agency's request for Office approval of the agency's objection to an eligible's qualifications and the Office's decision in the matter, an agency's request for Office approval for the agency to pass over an eligible and the Office's decision in the matter, and an agency's decision to object/pass over an eligible when the agency has authority to make such decisions under agreement with the Office.

c. Records regarding the Office's final decision on an agency's decision to object/pass over an eligible for suitability or medical reasons or when the objection/pass over decision applies to a compensable preference eligible with 30 percent or more disability.

d. Responses to and results of approved personality or similar tests administered by the Office or agency.

e. Records relating to rating appeals filed with the Office or agency.

f. Registration sheets, control cards, and related documents regarding Federal employees requesting placement assistance in view of pending or realized displacement because reduction in force, transfer or discontinuance of function, or reorganization.

g. Records containing non-competitive action cases referred to the Office for decision. These files include such records as waiver of time-in-grade requirements, decisions on superior qualification appointments, temporary appointments outside a register, and employee status determinations. Authority for making decisions on many of these actions has also been delegated to agencies. The records retained by the Office on such actions and copies of such files retained by the agency submitting the request to the Office, along with records that agencies maintain as a result of the Office's delegations of authorities, are considered part of this system of records.

h. Records retained to support Schedule A appointments of severely physically handicapped individuals, retained both by the Office and agencies acting under the Office delegated authorities, are part of this system.

i. Agency applicant supply file systems (when the agency retains applications, resumes, and other related records for hard-to-fill or unique positions, for future consideration), along with any pre-employment vouchers obtained in connection with an agency's processing of an application, are included in this system.

j. Records derived from the Office-developed or agency-developed assessment center exercises.

k. Case files related to medical suitability determinations and appeals.

Note 1.—The Office does not intend that records created by agencies in connection with the agency's Merit Promotion Plan program be included in the term "Applicant Supply File" as used within this notice. It is the Office's position that Merit Promotion Plan records are not a system of records within the meaning of the Privacy Act as such records are usually filed by a vacancy announcement number or some other key that is not a unique personal identifier. Agencies may choose to consider such records as within the meaning of a system of records as used in the Privacy Act, but if they do so, they are solely responsible for

implementing Privacy Act requirements, including establishment and notice of a system of records pertaining to such records.

Note 2.—To the extent that an agency utilizes an automated medium in connection with maintenance of records in this system, the automated versions of these records are considered covered by this system of record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C. Sections 1302, 3109, 3301, 3302, 3304, 3306, 3307, 3309, 3313, 3317, 3318, 3319, 3326, 4103, 4723, 5532, and 5533, and Executive Order 9397.

PURPOSE:

The records are used in considering individuals who have applied for positions in the Federal service by making determinations of qualifications including medical qualifications, for positions applied for, and to rate and rank applicants applying for the same or similar positions. They are also used to refer candidates to Federal agencies for employment consideration, including appointment, transfer, reinstatement, reassignment, or promotion. Records derived from the Office-developed or agency-developed assessment center exercises may be used to determine training needs of participants. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

a. To refer applicants, including current and former Federal employees to Federal agencies for consideration for employment, transfer, reassignment, reinstatement, or promotion.

b. With the permission of the applicant, to refer applicants to State and local governments, congressional offices, international organizations, and other public offices for employment consideration.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a 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.

d. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of positions, the letting of a contract, or the issuance of a license grant or other benefit.

e. To disclose information 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 conducting of a security or suitability investigation of an individual, the classifying of positions, 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.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

g. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

h. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

i. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

j. By the agency maintaining the records or by the Office to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

k. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions; e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

l. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

n. To disclose, in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes, disk, punched cards microfiche, cards, lists, and forms.

RETRIEVABILITY:

Records are retrieved by the name, date of birth, social security number, and/or identification number assigned to the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records in this system are retained for varying lengths of time, ranging from a few months to 5 years: e.g., applicant records that are part of medical determination case files or medical suitability appeal files are retained for 3 years from completion of action on the case. Most records are retained for a period of 1 to 2 years. Some records, such as individual applications, become part of the person's permanent offical records when hired while some records (e.g., non-competitive action case files), are retained for 5 years. Some records are destroyed by shredding or burning while magnetic tapes or disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Staffing Group, Office of Personnel Management, 1900 E Street NW, Washington, D.C. 20415

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the agency or the Office where application was made or examination was taken. Individuals must provide the following information for their records to be located and identified.

a. Name.
b. Date of birth.
c. Social security number.
d. Identification number (if known).
e. Approximate date or record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records.

The section of this notice titled "Systems Exempted from Certain Provisions of the Act" indicates the kind of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to their non-exempt records should contact the agency or the Office where application was made or examination was taken.

Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social security number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting access must also comply with the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 291.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of this notice titled "Systems Exempted from Certain Provisions of the Act" indicates the kind of materials exempted and the reasons for exempting them from amendment. An individual may contact the agency or the Office where application is filed at any time to update qualifications, education, experience, or other data maintained in the system.

Such regular administrative updating of records should not be requested under the provisions of the Privacy Act. However, individuals wishing to request amendment of other records under the provisions of the Privacy Act should contact the agency or the Office where application was made or examination was taken. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social security number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR 297.201 and 297.208).

Note.—In responding to an inquiry or a request for access or amendment, Resource Specialists may contact the Office's area office that provides examining and rating assistance for help in processing the request.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from: The individual to whom it applies or is derived from information the individual supplied, reports from medical personnel on physical qualifications, results of examinations that are made known to applicants, agencies and Office records, and vouchers supplied by references or other sources that the applicant lists or that are developed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains investigative materials that are used solely to determine the appropriateness of a request for approval of an objection to an eligible's qualifications for Federal civilian employment or vouchers received during the processing of an application. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such investigative material from certain provisions of the Act, to the extent that release of the material to the individual whom the information is about would:

a. Reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or

b. Reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

This system contains testing and examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records.

The specific materials exempted include, but are not limited to, the following:

a. Answer keys.
b. Assessment center exercises.
c. Assessment center exercise reports.
d. Assessor guidance material.
e. Assessment center observation reports.
f. Assessment center summary reports.
g. Other applicant appraisal methods, such as performance tests, work samples and simulations, miniature training and evaluation exercises, structured interviews, and their associated evaluation guides and reports.
h. Item analyses and similar data that contain test keys.
i. Ratings given for validating examinations.
j. Rating schedules, including crediting plans and scoring formulas for other selection procedures.
k. Rating sheets.
l. Test booklets, including the written instructions for their preparation.
m. Test item files.
n. Test answer sheets.

OPM/GOVT-6

SYSTEM NAME:

Personnel Research and Test Validation Records.

SYSTEM LOCATION:

Office of Staffing Policy, Staffing Group, Office of Personnel Management, Room 3G29, 1900 E Street, NW, Washington, D.C. 20415, the Office's regional offices (see list of regional office addresses in the Appendix), and agency personnel offices (or other designated offices) conducting personnel research.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees, applicants for Federal employment, current and former State and local government employees, and applicants for State and local government employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information on education and employment history, test scores, responses to test items and questionnaires, interview data, and ratings of supervisors regarding the individuals to whom the records pertain. Additional information (race, national origin, disability status, and background) is collected from applicants for certain examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Sections 1303 and 3301.

PURPOSES:

These records are collected, maintained, and used by the Office or employing agencies for the construction, analysis, and validation of written tests, and for research on and evaluation of personnel/organizational measurement and selection methods. Such research includes studies extending over a period of time (longitudinal studies). Race and national origin data are used by agencies to evaluate the role of examinations in the total employee selection process. Use of these race and national origin data is limited to such evaluation and oversight projects conducted by the employing agencies or the Office. The records may also be used by the Office or employing agencies to locate individuals for personnel research. Data are collected on a project-by-project basis under conditions assuring the confidentiality of the information. No personnel action or selection is made using these research records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Under normal circumstances, no individually identifiable records will be provided. However, under those unusual circumstances when an individually identifiable record is required, proper safeguards will be maintained to protect the information collected from unwarranted invasion of personal privacy. Such protection must be specified in writing by the requester and, to the satisfaction of the agency official responsible for maintaining the data, indicate that the proposed use of the data is in compliance with the letter and spirit of the Privacy Act. Under these circumstances, the routine uses are as follows:

a. By the Office or employing agency maintaining the records to locate individuals for personnel research or survey responses and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

b. To furnish personnel records and information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection program, reviewing allegations of discrimination, or assessing the status of compliance with Federal law.

c. To furnish information to the Merit Systems Protection Board, including the Office of the Special Counsel, in connection with actions by offices relating to allegations of discriminatory practices on the part of an agency or one of its employees.

d. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

e. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

f. To provide information to a congressional office from the record of an individual in response to a request from that congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETENTION AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on punched cards, disks, and magnetic tape.

RETRIEVABILITY:

Records are generally maintained by project. Personal information can be retrieved by name or personal identifier only for certain research projects such as those involving longitudinal studies.

SAFEGUARDS:

Records are kept in locked files in a locked room with access limited to authorized staff. Access to tape, disk, and other files used in data processing will be only by authorized staff.

RETENTION AND DISPOSAL:

Records are retained for 2 years after completion of the project unless needed in the course of litigation or other administrative actions involving a research or test validation survey. Manual records are destroyed by shredding or burning and magnetic tapes and disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Staffing Policy, Staffing Group, Office of Personnel Management, 1900 E. Street, NW, Washington D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager, the Office's regional office servicing the state where they are employed (see list of the Office's regional office addresses in the Appendix), or their employing agency's personnel office. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. If known, the title, time, and/or place of the test validation research study in which the individual participated.

d. Social security number.

e. Signature.

RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to records. The section of this notice titled "Systems Exempted from Certain Provisions of the Act" indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to non-exempt records should contact the appropriate office listed in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. If known, the title, time, and/or place of the test validation research study in which the individual participated.

d. Social security number.

e. Signature.

Individuals requesting access must also comply with the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d) regarding amendment of records. The section of this notice titled "Systems Exempted from Certain Provisions of the Act" indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of any non-exempt records should contact the appropriate office listed in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. If known, the title, time, and/or place of the test validation research study in which the individual participated.

d. Social security number.

e. Signature.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Individual applicants, including Federal, State, and local government employees; supervisors; assessment center assessors; and agency or Office personnel files and records (e.g., race, sex, national origin, and disability status data from OPM/GOVT-1 and OPM/GOVT-7 systems of records).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains testing and examining materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k) (6), permits an agency to exempt all such testing and examination material and information from certain provisions of the Act, when the disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relates to access to and amendment of records.

The specific materials exempted include, but are not limited to, the following:

a. Answer keys.

b. Assessment center exercises.

c. Assessment center exercise reports.

d. Assessor guidance material.

e. Assessment center observation reports.

f. Assessment center summary reports.

g. Other applicant appraisal methods, such as performance tests, work samples, and simulations, miniature training and evaluation exercises, structured interviews, and reports.

h. Item analyses and similar data that contain test keys.

i. Ratings given for validating examinations.

j. Rating schedules, including crediting plans and scoring formulas for other selection procedures.

k. Ratings sheets.

l. Test booklets, including the written instructions for their preparation.

m. Test item files.

n. Test answer sheets.

OPM/GOVT-7

SYSTEM NAME:

Applicant Race, Sex, National Origin, and Disability Status Records.

SYSTEM LOCATION:

Records in this system may be located in the following offices:

a. Office of Staffing Policy, Staffing Group, Office of Personnel Management, Room 3G29, 1900 E Street NW., Washington, D.C. 20415.

b. Office of Affirmative Employment Programs, Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

c. The Office's regional offices (see list of regional office addresses in the Appendix) and any register-holding area offices under the jurisdiction of a regional office.

d. Agency Personnel, Equal Employment Opportunity, or Federal Equal Opportunity Recruitment Program offices or other designated offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees and individuals who have applied for Federal employment, including:

a. Applicants for examinations administered either by the Office or by employing agencies.

b. Applicants on registers or in inventories maintained by the Office and subject to its regulations.

c. Applicants for positions in agencies having direct hiring authority and using their own examining procedures in compliance with the Office regulations.

d. Applicants whose records are retained in an agency's Equal Opportunity Recruitment file (including any file an agency maintains on current employees from under-represented groups).

e. Applicants (including current and former Federal employees) who apply for vacancies announced under an agency's merit promotion plan.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include the individual's name; social security number: date of birth; statement of major fields of study; type of current or former Federal employment status (e.g., career or temporary); applications showing work and education experience; and race, sex, national origin, and disability status data.

Note.—The race and national origin information in this system is obtained by three alternative methods: (1) Use of the Office's form on which individuals identify themselves as to race and national origin; or (2) by visual observation (race) or knowledge of an individual's background (national origin); or (3) at the agency's option, from the OPM/GOVT-1 system in the case of applicants who are current Federal employees. Disability status is obtained by use of Standard Form 256, "Self Identification of Medical Disability," which allows for a description by self-identification of the handicap.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7201, Sections 4A, 4B, 15A(1) and (2), 15B(11), and 15D(11): Uniform Guidelines on Employee Selection Procedures (1978); 43 FR 38297 *et seq.* (August 25, 1979); 29 CFR 1613.301; and 5 CFR 720.301.

PURPOSES:

These records are used by OPM and agencies to:

a. Evaluate personnel/organizational measurement and selection methods.

b. Implement and evaluate agency affirmative employment programs.

c. Implement and evaluate agency Federal Equal Opportunity Recruitment Programs (including establishment of minority recruitment files).

d. Enable the Office to meet its responsibility to assess an agency's implementation of the Federal Equal Opportunity Recruitment Program.

e. Determine adverse impact in the selection process as required by the Uniform Guidelines cited in the Authority section above. (See also "Questions and Answers," on those Guidelines published at 44 FR 11996, March 2, 1979.)

f. Enable reports to be prepared regarding breakdowns by race, sex, and

national origin of applicants (by exams taken, and on the selection of such applicants for employment).

g. To locate individuals for personnel research.

Note.—These data are maintained under conditions that ensure that the individual's identification as to race, sex, national origin, or disability status, does not accompany that individual's application nor is otherwise made known when the individual is under consideration by a selecting official.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose information to the Equal Employment Opportunity Commission (EEOC), in response to its request for use in the conduct of an examination of an agency's compliance with affirmative action plan instructions and the Uniform Guidelines on Employee Selection Procedures (1978), or other requirements imposed on agencies under EEOC authorities promulgated in Reorganization Plan No. 1 of 1978, in connection with agency Equal Employment Opportunity programs.

b. To disclose information to the Merit Systems Protection Board, including the Office of the Special Counsel, in response to its request in connection with the processing of appeals, special studies relating to the civil service and other merit systems in the executive branch, investigations into allegations of prohibited personnel practices, and such other functions; e.g., as prescribed in 5 U.S.C. 1205 and 1206 or as may be authorized by law.

c. By the Office or employing agency maintaining the records to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

d. To disclose information to a Federal agency in response to its request for use in its Federal Equal Opportunity Recruitment Program, to the extent that the information is relevant and necessary to the agency's efforts in identifying possible sources for minority recruitment.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is party to be judicial proceeding or in order to comply with the issuance of a subpoena.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on magnetic tape and disks.

RETRIEVABILITY:

Records are retrieved by the name and social security number of the individuals on whom they are maintained.

SAFEGUARDS:

Records are retained in locked metal filing cabinets in a secured room or in a computerized system accessible by confidential passwords issued only to specific personnel.

RETENTION AND DISPOSAL:

Records are generally retained for 2 years, except when needed to process applications or to prepare adverse impact and related reports, or for as long as an application is still under consideration for selection purposes. When records are needed in the course of an administrative procedure or litigation, they may be maintained until the administrative procedure or litigation is completed. Manual records are shredded or burned and magnetic tapes and disks are erased.

Note.—When an agency retains an automated version of any of the records in this system, maintenance of that record beyond the above retention schedules is permitted for historical or statistical analysis, but only so long as the record is not used in a determination directly affecting the individual about whom the record pertains after the prescribed destruction date.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Staffing Policy, Staffing Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Those individuals wishing to inquire if this system contains information about them should contact the system manager, the Office's regional offices (see list of the Office's regional offices in the Appendix) covering the state where the application for Federal employment was filed, or the personnel, Equal Employment Opportunity, or Equal Employment Opportunity Recruitment office or other designated office at the agency where they took an exam, filed an application, or where they are employed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social security number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The Office or employing agency where they are employed or submitted the information.

e. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about themselves should contact the appropriate office shown in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social security number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The Office's or employing agency where they are employed or submitted the information.

e. Signature.

An individual requesting access must also follow the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the appropriate office shown in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified.

a. Name.

b. Social security number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The Office or employing agency where they are employed or submitted the information.

e. Signature.

An individual requesting amendment must also follow the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains, on such forms as Personnel Research Questionnaire 79-1 (OPM Form 1377), Background Survey Questionnaire 79-2 (OPM Form 1386); or equivalent forms, or is obtained directly from other agency or Office records (e.g., race, sex, national origin, and disability status data may be obtained from the OPM/GOVT-1, General Personnel Records system).

OPM/GOVT-8

SYSTEM NAME:

Confidential Statements of Employment and Financial Interests.

SYSTEM LOCATION:

Individual agency ethics offices or other designated agency offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and employees who are required by their agency under Executive Order 11222 and 5 CFR Part 735 to file such statements. The system includes both former and current Federal employees in these categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain statements of personal and family holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions of counsel; and other information related to conflict of interest determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222.

PURPOSES:

These records are maintained to meet requirements of Executive Order 11222 on the filing of employment and financial interest statements. Such statements are required to assure compliance with the standards of conduct for Government employees contained in the Executive order and title 18 of the U.S.C., and to determine if a conflict of interest exists between the employment of individuals by the Federal Government and their personal employment and financial interests. To enable the Director of the Office of Government Ethics, to ensure that these purposes are met, agency maintained records are to be made available to that office on request.

Note.—When an agency is requested to furnish such records to the Director of the Office of Government Ethics, such a disclosure is to be considered as made pursuant to provisions of the Privacy Act (5 U.S.C. 552a(b)(1)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These statements and amended statements required by or pursuant to Executive Order 11222, Part IV, are to be held in confidence and no information shall be disclosed except:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is party to a judicial proceeding or in order to comply with the issuance of a subpoena.

c. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

d. By the National Archives and Records Service (General Services Administration) in record management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

f. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, in automated media, or on microfiche or microfilm.

RETRIEVABILITY:

These records are retrieved by the name and social security number of the individual on whom they are maintained.

SAFEGUARDS:

These records are located in locked metal file cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed when 6 years old, except that documents needed in an on-going investigation will be retained until no longer needed in the investigation. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of Government Ethics, Office of Personnel Management, 1717 H Street N.W., Washington, D.C. 20419.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Ethics Officer at the agency where the reports were filed.

Individuals must furnish the following information for their records to be located and identified.

a. Full name.

b. Department or agency and component with which employed.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Ethics Officer at the agency where the reports were filed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed.

Individuals requesting access must also comply with the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURE:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the Ethics Officer at the agency where the reports were filed.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person such as a trustee, attorney, accountant, or relative.

b. Federal officers who review the statements to make conflict of interest determinations.

c. Persons alleging conflicts of interests and persons contacted during any investigation of the allegations.

OPM/GOVT-9

SYSTEM NAME:

File on Position Classification Appeals, Job Grading Appeals, and Retained Grade or Pay Appeals.

SYSTEM LOCATION:

These records are located at the Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415, the Office's regional offices (see list of the Office's regional office addresses in the Appendix), agency personnel offices (or other designated offices), and Federal records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have filed a position classification appeal or a job grading appeal with Agency Compliance and Evaluation, Office of Personnel Management; an OPM regional office; or with their agency.

b. Current and former Federal employees who have filed a retained grade or pay appeal with Agency Compliance and Evaluation, Office of Personnel Management; or an Office's regional office.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to the processing and adjudication of a position classification appeal, job grading appeal, or retained grade or pay appeal. The records may include information and documents regarding a personnel action of the agency involved and the decision or determination rendered by an agency regarding the classifying or grading of a position or whether an employee is to remain in a retained grade or pay category. This system may also include transcripts of agency hearings and statements from agency employees.

Note.—This system notice also covers agency files created when (a) an employee appeals a position classification or job grading decision to the Office or within the agency regardless of whether that agency appeal decision is further appealed to the Office; and (b) an employee files a retained grade or pay appeal to the Office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 5112, 5115, 5346, and 5366 of title 5, U.S.C.

PURPOSE:

These records are primarily used to document the processing and adjudication of a position classification appeal, job grading appeal, or retained grade or pay appeal. Internally, the Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local government agency responsible for investigating, prosecuting, enforcing, or implementing a 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.

b. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to any source from which additional information is requested in the course of adjudicating a position classification appeal, job grading appeal, or retained grade or pay appeal to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring, retention, or assignment of an employee, the issuance of a security clearance, the conduct of a security or suitability investigation of an individual, the classifying of positions, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

g. By the Office or an agency in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To disclose information to officials of the Merit Systems Protection Board, including the Office of Special Counsel, when requsted in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions; e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

l. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES FOR STORAGE, RETRIEVAL, SAFEGUARDS, AND RETENTION AND DISPOSAL OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and binders and on index cards, magnetic tape, disks, and microfiche.

RETRIEVAL:

These records are retrieved by the subject individual's name, and the name of the employing agency of the individual on whom the record is maintained.

SAFEGUARDS:

These records are located in locked metal filing cabinets or in a secured room, with access limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records related to position classification appeal, job grading appeal, and retained grade or pay appeal files are maintained for 7 years after closing action on the case. Records are destroyed by shredding, burning, or erasing as appropiate.

SYSTEM MANGER(S) AND ADDRESS:

Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact:

a. For records pertaining to retained grade or pay appeals, contact the system manager or the appropriate Office's regional office.

b. For records pertaining to a position classification appeal or job grading appeal, where the appeal was made only to the Office, contact the system manager or the Office's regional office, as approprate (see list of the Office's regional office addresses in the Appendix).

c. For records pertaining to a position classification appeal or job grading appeal filed only with an agency, contact the agency personnel officer or other designated officer.

d. For records pertaining to a position classification appeal or a job grading appeal filed with both the agency and the Office, contact the agency personnel officer or other designated officer or the system manager or the Office's regional office, as appropriate.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Agency in which employed when the appeal was filed and the approximate date of the closing of the case.

d. Kind of action (e.g., position classification appeal, job grading appeal, or retained grade or pay appeal).

RECORD ACCESS PROCEDURE:

Individuals who have filed a position classification appeal, job grading appeal, or a retained grade or pay appeal, must be provided access to the record. However, after the appeal has been closed, an individual may request access to the official copy of the records by writing the official indicated in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Agency in which employed when the appeal was filed and the approximate date of the closing of the case.

d. Kind of action (e.g., position classification appeal, job grading appeal, or retained grade or pay appeal).

Individuals requesting access must also follow the Office's Privacy Act regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Review of requests from individuals seeking amendment of their records that have previously been or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request an amendment to their records to correct factual errors should contact the appropriate official indicated in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Date of birth.

c. Agency in which employed when the appeal was filed and the approximate date of the closing of the case.

d. Kind of action (e.g., position classification appeal, job grading appeal, or retained grade or pay appeal).

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations on verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. Individual to whom the record pertains.

b. Agency and/or the Office records related to the action.

c. Statements from employees or testimony of witnesses.

d. Transcript of hearings.

Appendix

Chicago Region

John Kluczynski Building, 230 South Dearborn Street, Chicago, IL 60604
Area Offices
Illinois—219 So. Dearborn Street, Chicago, IL 60604
Indiana—U.S. Courthouse and Federal Building, 46 East Ohio Street, Indianapolis, IN 46204
Michigan—477 Michigan Avenue, Room 565, Detroit, MI 48226
Minnesota—Federal Building, Room 501, Fort Snelling, Twin Cities, MN 55111
Ohio—U.S. Courthouse and Federal Building, Room 507, 200 West 2nd Street, Dayton, OH 45402

Denver Region

Building 20, Denver Federal Center, Denver, CO 80225
Area Offices
None

Dallas Region

1100 Commerce Street, Dallas, TX 75242
Area Offices
Louisiana—Federal Building, 610 South Street, New Orleans, LA 70130
New Mexico—421 Gold Avenue SW, Albuquerque, NM 87102
Oklahoma/Arkansas—200 NW 5th Street, Oklahoma City, OK 73102
Texas—643 E. Durango Blvd., San Antonio, TX 78205

New York Region

Jacob K. Javits Federal Building, 26 Federal Plaza, New York, NY 10278
Area Offices
New Jersey—Peter W. Rodino, Jr. Federal Building, 970 Broad Street, Newark, NJ 07102
New York—U.S. Courthouse and Federal Building, 100 So. Clinton Street, Syracuse, NY 13260
Puerto Rico—Federico Degetau Federal Office Building, Carlos E. Chadron Street, Hato Rey, PR 00918

Philadelphia Region

William J. Green, Jr. Federal Building, 600 Arch Street, Philadelphia, PA 19106
Area Offices
Maryland—Edward A. Garmatz Federal Building and Courthouse, 101 W. Lombard Street, Baltimore, MD 21201
Pennsylvania—Federal Building 1000 Liberty Avenue, Pittsburgh, PA 15222
Virginia—Federal Building, 200 Granby Mall, Norfolk, VA 23510

St. Louis Region

300 Old Post Office Building, 815 Olive Street, St. Louis, MO 63103
Area Offices
Kansas—120 South Market Street, Wichita, KS 67202
Missouri—East 12th Street, Kansas City, MO 64106

San Francisco Region

525 Market Street, 23rd Floor, San Francisco, CA 94105
Area Offices
Arizona—522 North Central Avenue, Phoenix, AZ 85004
California
—845 South Figueroa Street, Los Angeles, CA 90017
—1029 J Street, Room 202, Sacramento, CA 95814
—880 Front Street, San Diego, CA 92188
Hawaii—300 Ala Moana Blvd., Box 50028, Honolulu, HI 96850

Seattle Region

Federal Building, 26th Floor, 915 2nd Avenue, Seattle, WA 98174

Area Offices

Alaska—Federal Building and Courthouse, 700 C Street, Box 22, Anchorage, AK 98513

Oregon—Federal Building, Room 376, 1220 SW, 3rd Street, Portland, OR 97204

Atlanta Region

Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303

Area Offices

Alabama—Sutherland Building, 806 Governors Drive SW., Huntsville, AL 35801

Florida—Federal Building, 80 N. Hughey Avenue, Orlando, FL 32801

North Carolina—310 New Bern Avenue, P.O. Box 25069, Raleigh, NC 27611

South Carolina—Federal Office Building, 334 Meeting Street, Charleston, SC 29403

Tennessee—100 North Main Building, Memphis, TN 38103

Boston Region

John W. McCormack Post Office and Courthouse, Boston, MA 02109

Area Offices

Connecticut—Federal Building, 450 Main Street, Hartford, CT 06103

Massachusetts—3 Center Plaza, Boston, MA 02108

New Hampshire—Federal/Post Office Building, Portsmouth, NH 03801

[FR Doc. 84-24844 Filed 9-19-84; 8:45 am]

BILLING CODE 6325-01-M

Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35), this notice announces a request submitted to Office of Management and Budget (OMB) for renewal to continue to collect data on the Monthly Report of Federal Civilian Employment (SF 113-A). The information that is collected monthly provides a timely count of Government-wide employment, payroll, turnover, and employment ceiling-related data. Uses of the data include publishing the *Monthly Release of Federal Civilian Workforce Statistics;* answering data requests from the Congress, White House, OMB, other Federal agencies, the media, and the public; providing head-count employment ceiling-related data required by OMB; and serving as benchmark data for quality control of the Central Personnel Data File. For copies of the clearance package, call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

DATE: Comments on this proposal should be received by October 1, 1984.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, D.C. 20415

And

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: John P. Weld, (202) 632-7720.

Office of Personnel Management

Donald J. Devine,

Director.

[FR Doc. 84-24878 Filed 9-19-84; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Hearings on Possible U.S. Responses To Restore the Balance of International Trade Concessions if the European Communities Should Implement Their Proposal To Impose New Restrictions on Imports of Certain Corn Products Which are Exported by the United States

SUMMARY: This publication gives notice that the Trade Policy Staff Committee will conduct public hearings on possible U.S. responses to restore the balance of international trade concessions if the European Communities (EC) should implement their proposal to impose new restrictions on imports of certain corn products which are exported by the United States.

1. Public Hearings

The Chairman of the Trade Policy Staff Committee invites public comments on possible U.S. responses to restore the balance of international trade concessions if the EC should implement their proposal to impose new restrictions on imports of certain corn products which are exported by the United States. Such comments will be considered by the Executive Branch in preparing for further discussions with the EC about their proposal. The Committee is inviting specific comments on the effect of the EC proposal on U.S. trade interests, products of export interest to the EC on which the United States might impose retaliatory import restrictions, and products of export interest to the United States on which the United States might request compensatory EC import liberalization.

Interested parties are invited to present testimony or submit written comments on this issue.

2. Requests To Participate in the Public Hearings

Hearings will be held on October 9, 1984, beginning at 2 p.m. in room 403, Office of the U.S. Trade Representative, 600 Seventeenth Street, NW., Washington, DC and will continue on October 10. Parties wishing to testify orally at the hearings must provide written notification of their intention by noon, October 1, 1984 to Carolyn Frank, TPSC Secretary (Office of the United States Trade Representative, room 500, 600 17th Street, NW., Washington, DC 20506) giving:

(1) Their names, addresses and telephone numbers; and

(2) A brief summary of their presentation.

Those parties presenting oral testimony must submit a complete written statement in 20 copies by noon October 4.

Remarks at the hearings should be limited to no more than a 15 minute summary of the written statement to allow for possible questions from the Chairman and the interagency panel. Participants should provide twenty typed copies of their oral presentation at the time of the hearings.

Persons not wishing to participate at the hearings may submit a written statement, in twenty copies, by October 11 to the TPSC Secretary at the address noted above.

Parties are referred to section 2003 of Title 15 of the Code of Federal Regulations for the Committee's rules concerning oral testimony, the submission of written briefs, the treatment of business confidential information and other procedures related to TPSC hearings.

3. Background

By agreement with the United States and other Contracting Parties to the General Agreement on Tariffs and Trade (GATT), the EC currently maintains a zero duty on imports of certain corn products chiefly used in animal feeds.

On April 12, 1984, the EC proposed to withdraw the GATT commitment to unconditional duty-free treatment of these imports, and to impose limits on the quantities of each of these products which could be imported duty-free. The EC is not obligated to implement its proposal, nor is there a specified time within which the EC must act, if at all.

The annual quantities of each product in question which could continue to be imported into the EC free of duty under the EC proposal are as follows:

EC tariff No.	EC product description	Quantity
23.03	Beet-pulp, bagasse and other waste of sugar-manufacture; brewing and distilling dregs and waste; residues of starch manufacture and similar residues:	
	A. Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product:	
	II. Not exceeding 40 pct by weight.	3,000,000 metric tons.
	B. Other:	
	II. Other	40,000 metric tons.
23.04	Oil-cake and other residues (except dregs) resulting from the extracting of vegetable oils:	
	B. Other:	
	—oil cake of maize sprouts of a fat content by weight, calculated on the dry product:	
	. . . of less than 3 pct	750,000 metric tons.
	. . . of not less than 3 pct but not more than 8 pct.	350,000 metric tons.
	—Other	No limit.

In accordance with GATT rules, the EC has offered to negotiate this proposal with the United States, which is the major supplier of these products to the EC. Under GATT rules the EC must offer compensation to the United States, in the form of reductions in other EC trade barriers of interest to the United States, in order to restore the balance of trade concessions if the EC decides to implement the proposed new restriction. If the United States does not agree to the EC compensatory offer, then GATT rules permit the United States to impose retaliatory restrictions so as to restore the balance of trade concessions between the United States and the EC.

The United States vigorously opposes any restriction or impairment of the tarifff concessions by the EC, and is seeking to persuade the EC not to implement this action. However, if the EC should finally implement these restrictions to take countermeasures.

Under the rules of GATT Article XXVIII, compensation or retaliation on other products should be substantially equivalent in trade effect to the concessions withdrawn. For illustrative purposes, U.S. exports to the EC of the products that would be affected were valued at almost 800 million dollars in 1983. Further, GATT rules provide that the adjournment of tariff concessions would be applied on a most-favored-nation basis, i.e., to trade with all GATT Contracting Parties. In order to avoid undue effects on third countries, it is normal that retaliation concentrate on products primarily supplied by the country taking the adverse action.

Should retaliation be necessary, authorities available under U.S. law includes sections 125 and 301 of the Trade Act of 1974.

4. Comments

Comments are particularly invited on—

(a) The effect the EC's proposed action would have on U.S. interests.

(b) Products exported by the United States on which we might request new concessions from the EC as compensation,

(c) Products exported to the U.S. by the EC against which the United States could impose retaliatory restrictions.

5. Additional Information

Any questions with regard to this issue should be directed to Len Condon, Agricultural and Commodity Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Washington, D.C. 20506; telephone, (202) 395-5006.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 84-24927 Filed 9-19-84; 8:45 am]

BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

[Docket No. A84-15; Order No. 577]

East Orwell, Ohio 44034 (Mr. & Mrs. John Demeter, Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued: September 14, 1984.

Docket No. A84-15.

Name of affected Post Office: East Orwell, Ohio 44034.

Name(s) of Petitioner(s): Mr. & Mrs. John Demeter.

Type of determination: Closing.

Date of filing of Appeal papers: September 12, 1984.

Categories of Issues Apparently Raised

1. Effect on Community Serviced by Office [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before September 27, 1984.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Appendix

September 12, 1984—Filing of petition.

September 14, 1984—Notice and order of filing of appeal.

October 9, 1984—Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

October 17, 1984—Petitioners' participant statement or initial brief [*see* 39 CFR 3001.115(a) and (b)].

November 6, 1984—Postal Service answering brief [*see* 39 CFR 3001.115(c)].

November 21, 1984—(1) Petitioners' reply brief should petitioners choose to file one [*see* 39 CFR 3001.115(d)].

November 28, 1984—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116].

January 10, 1984—Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 84-24888 Filed 9-19-84; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14159; 812-5864]

The Empire Builder Tax Free Bond Fund, et al.; Filing of Application for an Amended Order Exempting Applicants

September 13, 1984.

Notice is hereby given that The Empire Builder Tax Free Bond Fund (formerly named ITB Empire Tax Free Income Fund), 60 State Street, Boston, Massachusetts 02109; and Investment Trust of Boston—Massachusetts Tax Free Income Fund ("Applicants"), filed an application on May 31, 1984, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), amending a previous order of the Commission (Investment Company Act Release No. 13655) and exempting Applicants from the provisions of Section 22(d) of the Act to the extent

necessary to permit certificate holders of certain unit investment trusts to invest dividend distributions and capital distributions (including capital gains distributions) received from such unit investment trusts in shares of Applicants with a reduced sales load equal to 1½% of the public offering prices for shares of the Applicants. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable Sections.

According to the application, each of the Applicants is a Massachusetts business trust registered pursuant to Section 8 of the Act as an open-end, non-diversified, management investment company. Applicants state that their Registration Statements on Form N-1 under the Act and the Securities Act of 1933 have become effective. Applicants' manager is Moseley Capital Management Inc., a wholly-owned subsidiary of Moseley, Hallgarten, Estabrook & Weeden Holding Corporation, whose principal operating subsidiary is Moseley, Hallgarten, Estabrook & Weeden Inc. ("Moseley, Hallgarten"), a full service New York Stock Exchange Member firm. ITB Distributors Inc. ("Principal underwriter") is the principal underwriter for each of the Applicants. The Empire Builder Tax Free Bond Fund is intended for New York investors seeking high current income exempt from federal income tax and New York State and City personal income taxes. Investment Trust of Boston—Massachusetts Tax Free Income Fund is intended for Massachusetts investors seeking high current income exempt from federal income tax and Massachusetts personal income taxes.

Applicants request an exemption from Section 22(d) of the Act to permit certificate holders of unit investment trusts sponsored or co-sponsored by Moseley, Hallgarten or by other broker-dealers with which the Principal Underwriter has agreements pertaining to the sale of shares of the Applicants to such certificate holders, to invest dividend distributions and capital distributions (including capital gains distributions) received from such unit investment trusts in shares of the Applicants with a reduced sales charge equal to 1½% of the public offering prices for shares of the respective Applicants.

Applicants state that the proposed sale of their shares at reduced sales charges is intended to make such shares available at competitive prices to such investors in unit investment trusts. Applicants assert that since certificate holders of unit investment trusts have already received selling services, either from an affiliate of the Principal Underwriter or from a dealer with which the Principal Underwriter has a dealer agreement, relating to an investment in a portfolio of tax exempt income producing securities in connection with their investment in the unit investment trust, a lesser sales effort is required in order to obtain a commitment to purchase shares of the Applicants. Applicants further assert that in the case of income distributions, such investors are generally independently seeking opportunities to reinvest dividend distributions. Since such certificate holders have generally already paid a sales load in investing in unit investment trusts equivalent to that which an investor would initially pay when investing in shares of the Applicants, Applicants believe that it is inappropriate to impose the full sales charge with respect to sales in connection with the reinvestment of unit investment trust dividend and capital distributions.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 9, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-21324 Filed 9-13-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21289; SR-NYSE-84-26]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

September 5, 1984.

On July 12, 1984, the New York Stock Exchange, Incorporated ("NYSE"), 11 Wall Street, New York, NY 10005, submitted a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder,[1] to authorize NYSE member firms to use, for certain options orders, the NYSE's Designated Order Turnaround ("DOT") and Limit Order Turnaround ("LMT") Systems and the NYSE's Opening Automated Report Service ("OARS"). The Commission solicited comments on the proposal but received none.[2]

The DOT and LMT Systems would enable members electronically, through their own order processing systems, to route certain designated options market and limit orders directly to the appropriate specialist location for execution in accordance with standard auction market procedures. In addition, these systems electronically generate and forward to the originating member firm completed execution reports. The proposal authorizes member firms to use these systems for all post-opening day market and day limit orders in any option series, of no more than 100 contracts each. The proposed rule change also provides that options specialists guarantee the execution prices they report through the DOT System up to ¼ point away from the execution price, even if erroneous.

With regard to those options orders entered into the System prior to the opening of trading, OARS would continuously calculate and display electronically (via the specialist's computer terminal) the number of buy and sell contracts, and any remaining imbalance, in each options series. In addition, OARS will capture all day market orders, of no more than 100 contracts each, entered into the System prior to the opening of trading. OARS also generates and sends execution reports to the originating member firms.

In addition, the NYSE proposal provides that specialists will not levy any fee or commission on member firms for the handling of market orders, executed at the opening and during the day, and immediately executable limit orders, as defined by the NYSE. The NYSE indicates that this provision in its rule proposal corresponds to the Exchange's current policy of not

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[1] *See* Securities Exchange Act Release No. 21157 (July 20, 1984), 49 FR 30271 (July 27, 1984).

[2] The application of the DOT system to options trading is, however, discussed in the comment letter to the Commission by the Philadelphia Stock Exchange, Inc. ("Phlx") concerning the NYSE proposal to trade options on individual listed securities ("Phlx comment letter"). *See* File No. SR-NYSE-84-3, letter to George A. Fitzsimmons, Secretary, SEC, from Nicholas A. Giordano, President, Phlx, dated July 27, 1984; and note 3 *infra*.

charging commissions on the execution of orders in equity securities through the DOT System. The NYSE indicates that, because limit orders are more difficult to execute and, generally, take a longer period of time to process, the specialist may charge a commission for any option LMT order which remains unexecuted after a predetermined period of time (currently designated at two minutes) has elapsed after the order enters the System. The proposal to charge a fee for limit orders that remain unexecuted after two minutes have elapsed corresponds to the policy set in place for the execution of limit orders for equity securities under the DOT System. *See* SR-NYSE-84-21; Securities Exchange Act Release No. 21197 (August 2, 1984), 49 FR 31792 (August 8, 1984).[3]

Currently, the DOT and LMT Systems and OARS are used by NYSE member firms exclusively for certain designated equity security orders. In general, the options DOT and LMT Systems and OARS will perform the same functions in regard to order routing and reporting and trade comparison as the current system for equity securities.[4] The options DOT and LMT Systems will use the equity systems' computer hardware and facilities. In order to participate in the options DOT and LMT Systems and OARS, members that already use these services for equity securities need make only minor software modifications in their systems. Nevertheless, in some respects, the options DOT and LMT Systems represent a technological advancement over the current systems for equities. For example, the options DOT and LMT Systems will permit orders entered through the System to be displayed on the specialists' computer terminal on the Exchange floor. In addition, all system communications, including OARS orders, and all reports and cancellations, will be computerized.

The application of the DOT and LMT Systems and OARS to options transactions should enable member firms to experience more timely and cost efficient execution of their options orders. In addition, the increased use of automated facilities by member firms to place orders, and by specialists to report executions, and cancel or obtain information on any order in the System, should further enhance the timeliness of options transactions as well as the accuracy with which they are handled. Furthermore, the 100 contract limitation on the size of options orders to be entered into the System is appropriate, at least initially, because of the lack of experience with the new System. As the NYSE indicates in its filing, this restriction should provide members with sufficient flexibility, while simultaneously limiting the potential financial risk to member firms and specialists.

In its filing, the NYSE asserts its beliefs that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular Sections 11A(a)(1) and 17A(a)(1), which provide that "new data processing and communications techniques create the opportunity for," respectively, "more efficient and effective market operations" and "more efficient, and "more efficient, effective, and safe procedures for clearance and settlment." The Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act, in that it provides more rapid, efficient and cost-effective options executions and reports and thus facilitates transactions on the exchange. The Commission further finds that the proposed rule change is consistent with Section 6(b)(8) of the Act, in that it does not impose any burden on competition not necessary or appropriate in furtherance of the Act.[5]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24933 Filed 9-19-84; 8:45 am]

BILLING CODE 8010-01-M

[3] In the Phlx comment letter, the DOT system is referred to as "another instance of unfair or anticompetitive behavior designed to utilize the NYSE's primary equity market's resources to become dominant in the options market." The Phlx focus is on the "free service" provided NYSE member firms under the DOT system. The Phlx erroneously argues that, while floor brokerage commissions are levied for limit orders on the equity side, no brokerage commissions are to be charged for options orders. As indicated above, under certain circumstances, fees will be charged on both options and equity orders executed through the DOT System.

The Commission believes that by enhancing the cost efficiency and timeliness of certain options orders executed through the DOT and LMT Systems and OARS, the NYSE proposal should enable it to fairly compete more effectively with other options exchanges that have automated order routing and execution capabilities. *See, e.g.,* the American Stock Exchange, Inc.'s ("Amex") Amex Options Switch ("AMOS") System and the Chicago Board Options Exchange, Inc.'s ("CBOE") Order Support System ("OSS"). In addition, the NYSE's proposal to impose fees, under certain circumstances, on limit orders executed through the System, is virtually identical to provisions presently in place for AMOS on Amex. Moreover, with respect to this particular proposed rule change, the Commission notes that the competitive impact, if any, is quite limited because the NYSE currently is authorized to trade options on three contracts—the NYSE Composite Index, the NYSE (double value) Composite Index, and the "New" AT&T Companies Index. Indeed, the Phlx did not even comment on this particular rule change, but rather raised its concern in the context of the NYSE trading options on individual equities.

[4] Because options settle on a next-day basis and equities on a five-day basis, however, clearance and settlement procedures will differ between the options and equity systems.

[5] *See* discussion *supra* at note 3.

[Rel. No. 23420; 70-7022]

American Electric Power Co., Inc. Aep Generating Co.; Proposal To Dispose of and Acquire Pollution Control Facilities, and Guaranty Pollution Control Bonds

September 14, 1984.

AEP Generating Company ("AEGCO"), and its parent American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, have proposed a transaction with this Commission subject to sections 9(a), 10, 12(b), and (d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 thereunder.

By prior Commission Order, AEGCO acquired one-half undivided interest in the Rockport Generating Station ("Plant") along with Indiana & Michigan Electric Company ("I&ME"), also a subsidiary of AEP, which includes responsibility for 50% of the costs associated with disposing of and acquiring certain water pollution control devices ("Project") (HCAR No. 23399, August 17, 1984). AEGCO now proposes to enter into an Agreement of Sale ("Agreement") with the City of Rockport, Indiana ("City") providing for the construction and installation of the Project by the City, and the issuance by the City of pollution control revenue bonds ("Bonds") to finance the Project.

The Bonds will be issued in an initial principal amount of up to $150 million ("Series A") and additional bonds in principal amounts which, when added to the principal amount of the Series A Bonds, are sufficient to cover the cost of construction of the Project. It is currently estimated that the Cost of Construction of the Project will amount to $150 million. The proceeds of the sale of the Series A Bonds will be deposited by the City with Lincoln National Bank and Trust Company of Fort Wayne, as Trustee ("Trustee"), under an indenture

to be entered into between the City and such Trustee, ("Indenture") pursuant to which the Series A Bonds are to be issued and secured. Such proceeds will be applied to payment of the cost of construction of the Project. The Agreement also will provide for the sale of the Project to AEGCO, the payment by AEGCO of the purchase price of the Project, and the assignment and pledge to the Trustee of the City's interest in, and of the monies receivable by the City under, the Agreement.

The proceeds received by AEGCO in reimbursement of its cost of construction of the Project are to be applied to the payment of outstanding bank loans of AEGCO and for construction and other corporate purposes. At June 30, 1984, such outstanding bank loans of AEGCO amount to $435 million.

The Agreement will provide that each installment of the purchase price for the Project payable by AEGCO will be in such amount (together with other monies held by the Trustee under the Indenture for that purpose) as will enable the City to pay, when due and payable, (i) the interest of the Series A Bonds, any additional Bonds and any refunding Bonds, (ii) the principal amount of the Series A Bonds, any additional Bonds and any refunding Bonds payable at the time of their respective stated maturities and (iii) amounts, including any accrued interest, payable in connection with any mandatory redemption of the Series A Bonds, any additional Bonds or any refunding Bonds. The Agreement will also obligate AEGCO to pay the fees and charges of the Trustee, as well as certain administrative expenses of the City.

AEGCO shall have the option to repay the purchase price of the Project in whole upon the occurrence of certain events by paying amounts sufficient to redeem all the Bonds then outstanding, the fees and expenses of the Trustee, and all other amounts payable under the Indenture, or at any time by depositing monies in the Bond Fund (as defined in the Indenture) or delivering to the Trustee governmental obligations sufficient in either case to provide for the release of the Indenture in accordance with its terms. Upon prepayment of the entire purchase price of the Project, AEGCO may terminate the Agreement. AEGCO may also prepay the purchase price of the Project in part, such payments to be paid to the Trustee for deposit in the Bond Fund and credited against the purchase price and used for the redemption or purchase of outstanding Bonds in the manner and to the extent the outstanding Bonds are redeemable or subject to purchase as provided in the Indenture.

AEGCO will convey the Project, to the extent that it has already been constructed and is then in place at the Plant site ("Existing Facilities"), and AEGCO will be entitled under the Agreement to be reimbursed from the proceeds of the Bond for its costs of construction. The Existing Facilities will thereupon become a part of the Project which AEGCO will repurchase from the City pursuant to the Agreement.

It is contemplated that the Series A Bonds will be sold by the City pursuant to arrangements with an underwriter or a group of underwriters. In accordance with the laws of the State of Indiana, the interest rate to be borne by the Series A Bonds will be fixed by or on behalf of the Common Council of the City. While AEGCO will not be a party to the underwriting arrangements for the Series A Bonds, the Agreement will provide that the terms of Series A Bonds and their sale by the City shall be satisfactory to AEGCO. AEGCO understands that interest on the Series A Bonds will be exempt from federal income taxation under the provisions of Section 103 of the Internal Revenue Code of 1954, as amended. It is not possible to predict precisely the interest rate which may be obtained in connection with the issuance of the Series A Bonds. However, AEGCO has been advised that, depending on maturity and other factors, the annual interest rates on obligations, interest on which is so tax exempt, historically have been and can be expected at the time of issuance of the Series A Bonds to be 2½% to 5% lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

The Series A Bonds will be dated as of the date of issuance, will bear interest therefrom payable on April 1 and October 1, 1985, and will mature on October 1, 1985. It is expected that the Series A Bonds will not be redeemable at the option of the City prior to April 1, 1985, except under certain circumstances.

The Indenture contemplates that one or more series of Bonds may be issued with a guaranty, letter of credit, insurance policy, first mortgage bond or other collateral or instrument of credit enhancement provided by a person other than the City to afford additional security for the Bonds of such series. In connection with the issuance of the Series A Bonds, it is proposed that AEP will execute a Guaranty Agreement to the Trustee providing that AEP shall absolutely and unconditionally guarantee payment of the interest, principal and premium, if any, on the Series A Bonds. The management of AEP believes that the furnishing of such guaranty will permit the Series A Bonds to be sold upon more favorable terms and accordingly will be in the best interests of consumers and investors and consistent with sound and prudent financial policy.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 3, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25020 Filed 9-19-84; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21328; File No. SR-OCC-84-13]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corporation

September 14, 1984.

On August 24, 1984, The Options Clearing Corporation ("OCC") filed a proposed rule change (SR-OCC-84-13) with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

OCC's proposal enables OCC to clear options trades effected through several automated trading systems of the New York Stock Exchange, Incorporated ("NYSE").[1] OCC has entered into an

[1] The Commission authorized the NYSE to process option transactions through its DOT, LMT and OARS systems in Securities Exchange Act Release No. 21269 (September 5, 1984).

Omnibus Account Agreement ("Agreement") with the NYSE and Stock Clearing Corporation ("SCC"), a wholly-owned subsidiary of NYSE, to establish omnibus accounts for each NYSE system.[2] Initially, the proposed clearing arrangement will be limited to non-equity options transactions.

The Agreement provides that OCC will consider SCC to be an OCC clearing member and will treat each omnibus account as a specialist's account.[3] Reports of matched trades effected through NYSE's automated systems will designate the omnibus account for that system as the *contra* party to the trade. OCC expects that opening and closing transactions settling in each omnibus account on any trading day will fully offset each other. As a result, SCC should not have open positions in such accounts and will not have settlement obligations to OCC. Nevertheless, transactions might not fully offset each other because of erroneous trade reports, OCC trade rejections or other reasons. If open positions do result, the Agreement requires SCC to satisfy related premium settlement obligations and OCC margin deposit requirements. Accordingly, like other OCC clearing members, SCC must maintain settlement accounts with a clearing bank as required by OCC Rule 203. Furthermore, pursuant to the Agreement, SCC will promptly close any such open positions by submitting an adjustment instruction to OCC or by executing a closing transaction on the NYSE for the appropriate omnibus account.

Although SCC is treated as a clearing member under the Agreement, OCC has modified the financial safeguarding mechanisms surrounding SCC's membership. Under the Agreement, NYSE guarantees the timely performance of SCC's obligations, including its premium payment and OCC margin obligations. The Agreement also requires SCC to make clearing fund contributions, including the minimum initial contribution of $100,000 to OCC's Non-Equity Securities Clearing Fund. Moreover, if SCC wishes to clear equity options, it will also need to deposit the initial minimum deposit of $10,000 to the Stock Clearing Fund.[4]

Because SCC is an NYSE facility and not a broker-dealer, OCC believes that several OCC Rules should not apply to SEC.[5] For instance, the Agreement does not subject SCC to Chapter XII of OCC's Rules, which authorizes OCC to discipline members for violating OCC's Rules, By-Laws and Agreements. OCC also will not require SCC to comply with Chapter III of its Rules, which contains OCC's net capital and financial responsibility requirements. Nevertheless, upon OCC's request, SCC will be required to demonstrate its ability to meet its settlement obligations on a timely basis. OCC also will not require SCC to pay any clearing fees.

OCC believes that its proposed rule change is consistent with the purposes and requirements of Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (the "Act") because it facilitates the clearance and settlement of options transactions effected through NYSE's automated trading systems. In addition, OCC states that its safeguarding mechanisms and the financial guarantee provided by NYSE should adequatlely protect the securities and funds in OCC's custody or control or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–84–13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulations pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-25022 Filed 9-19-84; 8:45 am]

BILLING CODE 8010-01-M

[2] OCC states that it will establish identical omnibus account arrangements for other options exchanges' automated trading systems.

[3] For example, like "regular" specialist's accounts, OCC will have the right to net purchase transactions against writing transactions in each omnibus account. *See* OCC Rule 601 (a) and (b) for a detailed description of OCC's margin calculation for specialist's accounts.

[4] OCC also will require SCC, as a clearing member, to make other Non-Equity Securities and Stock Clearing Fund contributions required by OCC Rule 1001. For each clearing fund, the required monthly contribution will be (a) the initial requirement ($100,000 and $10,000 respectively), or (b) 5%, or a higher percentage determined by OCC's Board of Directors, of SCC's average daily aggregate margin requirement for the related type of option contracts (non-equity or stock) outstanding during the preceding calendar month. Interpretation and Policy .01 to OCC Rule 1001 increases the percentage to 7%.

[5] OCC also is making exceptions for SCC from other OCC Rules and By-Laws, such as Article III relating to the composition and election of an OCC clearing member's Board of Directors.

[Rel. No. 14160; 812-5713]

Salomon Brothers Mortgage Securities, Inc.; Filing of an Application for an Order of the Commission Pursuant to Section 6(c) of the Act Exempting Applicant From All Provisions of the Act

September 14, 1984.

Notice is hereby given that Salomon Brothers Mortgage Securities, Inc. ("Applicant"), RepublicBank Dallas Tower, Suite 4110, Dallas, Texas 75210, a Delaware corporation which is an indirect wholly-owned subsidiary of Phibro-Salomon Inc., filed an application on November 29, 1983, and an amendment thereto on July 25, 1984, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of the provisions referred to herein and in the application.

According to the application, the Applicant's activities are limited by its Certificate of Incorporation to (i) acquiring, owning, holding, pledging and otherwise dealing with "fully modified pass-through" mortgage-backed certificates ("GNMA Certificates") guaranteed by the Government National Mortgage Association ("GNMA"); (ii)

issuing and selling debt securities that are collateralized by GNMA Certificates and have been rated in the highest bond rating category of two nationally recognized statistical rating agencies; and (iii) activities incidental to the foregoing. Applicant may not otherwise trade or deal in securities or engage in any other activity.

Applicant proposes to issue and sell, in series, GNMA-collateralized obligations (the "Bonds"). Each series of Bonds will be issued pursuant to an indenture (the "Indenture") qualified under the Trust Indenture Act of 1939 and will be secured by the assignment and physical delivery to the trustee (the "Trustee") under the Indenture of a fixed portfolio of GNMA Certificates purchased with the proceeds of the sale of such Bonds, by the monthly distributions received on such GNMA Certificates and by the income derived from the reinvestment of such distributions. Each portfolio of GNMA Certificates will consist of GNMA Certificates representing the entire issue of a particular underlying mortgage pool ("whole-pool GNMA Certificates") and GNMA Certificates representing an undivided fractional interest in an underlying mortgage pool ("partial-pool GNMA Certificates"). Applicant represents that at the date of issuance, each portfolio of GNMA Certificates will have an outstanding principal balance in excess of the principal amount of the related series of Bonds and that thereafter, no GNMA Certificates will be added, withdrawn or substituted as collateral for that series of bonds. According to Applicant, the distributions on the mortgages underlying each portfolio of GNMA Certificates, together with the reinvestment earnings on such distributions (at the assumed rate of return specified in the Indenture), will be sufficient, regardless of the rate of prepayments on the underlying mortgages, to make timely payments of interest and principal on the related series of Bonds. Applicant represents that distributions on the GNMA Certificates will be invested in U.S. Government obligations and certain other instruments acceptable to the two rating agencies rating the Bonds and such investments will mature on or prior to the next payment date for the related series of Bonds which will occur no less frequently than semi-annually. Applicant further represents that the collateral pledged as security for one series of Bonds will serve as collateral only for that series of Bonds.

Applicant states that it believes that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that it be exempted from the requirements of the Act so long as it conducts its business in the manner described. Applicant maintains that since the Bonds will have fixed interest rates, will not be convertible into any other obligation of the Applicant (or any other person), will not be redeemable by Bondholders, and will not otherwise grant Bondholders an equity interest in the GNMA Certificates pledged as security for such Bonds, the debt obligations proposed to be issued do not raise the problems of inequitable pricing, excessive or hidden sales loads or churning of accounts associated with some early unit investment trusts. It is asserted that applicant cannot affect the timely payment of a series of Bonds, since, under the Indenture, the portfolio of pledged GNMA Certificates must be physically delivered to the Trustee immediately following the issuance of a series of Bonds and may not thereafter be altered in any respect. In addition, distributions received on the GNMA Certificates and the reinvestment income thereon will, pursuant to the Indenture, be paid directly to the Trustee, and payment of the scheduled distributions on the GNMA Certificates will be guaranteed by the United States. Finally, Applicant submits that granting the application is appropriate in view of the public interest in increasing the financing available for residential housing. According to Applicant, collateralized-mortgage obligations (such as the Bonds) attract new, lower-cost capital to the residential mortgage market, increase the liquidity of the primary and secondary mortgage markets, and give thrift institutions and home builders greater flexibility in the types of mortgages they can offer. The Applicant believes that these new sources of funds and the resulting increase in liquidity will tend to reduce mortgage interest rates and increase new housing construction. To this end, Applicant agrees to first seek to obtain and pledge newly issued GNMA Certificates as collateral for each series of Bonds. However, to the extent the use of newly issued GNMA Certificates is impracticable in light of price or availability, Applicant will obtain and pledge other GNMA Certificates to fully collateralize a series of Bonds.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 9, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley Hollis,

Acting Secretary.

[FR Doc. 84-25021 Filed 9-19-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Advent V Capital Co. LP; Issuance of License To Operate as a Small Business Investment Company

[License No. 01/01-0331]

On June 22, 1984, a notice was published in the Federal Register (49 FR 25729) stating that an application had been filed by Advent V Capital Co. LP, 45 Milk Street, Boston, Massachusetts 02109, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1984)] for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business on July 23, 1984, to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, after having considered the application and all other pertinent information, SBA issued license No. 01/01-0331 to Advent V Capital Co. LP to operate as a SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 14, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-25027 Filed 9-19-84; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Cedar Rapids, Iowa, will hold a public meeting at 9:00 a.m., on Wednesday, October 24, 1984, at the Junior Achievement Building, 330 Collins Road, NE., Cedar Rapids, Iowa, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Ralph W. Potter, District Director, U.S. Small Business Administration, 337 Collins Road, NE., Cedar Rapids, Iowa 52402, telephone number (319) 399-2571.

Dated: September 14, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-25031 Filed 9-19-84; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 10:30 a.m. on Thursday, October 25, 1984, at the Fu Ling Restaurant, 970 North Broadway, Los Angeles, California 90012, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call M. Hawley Smith, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite #600, Los Angeles, California 90071; Telephone No. (213) 688-2977.

Dated: September 14, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-25030 Filed 9-19-84; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m., on Thursday, October 18, 1984, in Room 752 U.S. Courthouse Building, West 920 Riverdale Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651 U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 99210, telephone (509) 456-3781.

Dated: September 14, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-25028 Filed 9-19-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-070]

Coast Guard Academy Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Tuesday and Wednesday October 30-31, 1984. The session on Tuesday will be held from 1:00-2:00 p.m. An open session will also be held on Wednesday from 10:00 to 11:30 a.m. The agenda for this meeting consists of the following items:

1. Faculty,
2. Curricula.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the hearing. Those who would like to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Capt. David A. Sandell, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 444-8275.

Dated: September 14, 1984.

B.L. Stabile,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 84-24944 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 84-071]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC). The meeting will be held on 11 October 1984 in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The agenda for the meeting follows:

1. TSAC discussion and/or recommendations concerning the following past agenda items:

(a) Recent International Maritime Organization Meeting Developments
(b) Intervals for Drydocking and Tailshaft Requirements on Inspected Vessels
(c) Boundary Lines
(d) Great Lakes Limited Loadlines Routes
(e) Air Quality: Vapor Control/Vapor Recovery
(f) Licensing of Pilots; Manning of Vessels—Pilots
(g) Qualifications of Persons in Charge of Oil Transfer Operations
(h) Licening of Officers and Operators
(i) Seafarers Health Improvement Plan

2. New Agenda Items:

(a) Coast Guard Contracting of Short Range Aids to Navigation
(b) Blind Bend Whistle Signal on Rivers
(c) International Regulations for Preventing Collisions at Sea, 1972; Vertical Sector Requirements for Lights on Unmanned Barges
(d) Vessel Bridge-to-Bridge Radiotelephone Communications on the Great Lakes
(e) Uninspected Vessels—Coast Guard/OSHA Jurisdiction (Information item)
(f) Waste Reception Facilities (Briefing on Status of Proposed Rule)
(g) Identification of Critical Navigation Areas on Western Rivers; NTSB Recommendation M-83-093

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting.

FOR FURTHER INFORMATION CONTACT: Executive Secretary, Towing Safety

Advisory Committee, U.S. Coast Guard (G–CMC/21), Washington, DC 20593, (202) 426–1477.

Dated: September 17, 1984.

C.M. Holland,

Captain, U.S. Coast Guard, Executive Secretary, Towing Safety Advisory Committee.

[FR Doc. 84-24942 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Draft Environmental Impact Statement; New London County, CT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a draft environmental impact statement will be prepared for a proposed highway project in New London County, Connecticut.

FOR FURTHER INFORMATION CONTACT: David R. Billings, Environmental Engineer, Federal Highway Administration, 1 Hartford Square West, South Building, Hartford, Connecticut 06114, Telephone (203) 722–2437 or James F. Sullivan, Director, Office of Environmental Planning, Connecticut Department of Transportation, 24 Wolcott Hill Road, Wethersfield, Connecticut 06109, Telephone (203) 566–5704.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Connecticut Department of Transportation, will prepare a draft environmental impact statement (DEIS) on a proposal to construct Route 11 in New London County, Connecticut.

The purpose of the DEIS is to analyze environmental impacts which may occur as a result of implementation of the project and to gain input relating to the alternatives under consideration. The DEIS will consider the alternatives of: (1) Do Nothing, (2) Improve Existing Facilities, (3) Mass Transit, and (4) Various Expressway Locations.

The proposed construction will begin at the interchange of the existing Route 11 expressway with Route 82 in Salem, and will extend 10 miles southerly through Montville to Interstate 95 in Waterford.

This proposal has an extensive history of coordination with Federal, State, local, and regional agencies and organizations. A DEIS for this project was prepared and circulated for public review on October 9, 1979. Public hearings and informational meetings concerning traffic, engineering, environmental, social, economic, and land use issues were held in 1978 and 1979. Due to the passage of time, during which extensive local and regional coordination has taken place, a new DEIS will be prepared. Since the full range of issues relating to this project have been identified, formal scoping meetings are not deemed necessary at this time.

Agencies, organizations and individuals interested in submitting comments or questions on the proposed action should contact the FHWA or Connecticut Department of Transportation at the address provided above before 45 days from this publication date.

Issued on: September 12, 1984.

James J. Barakos,

Division Administrator, Hartford, Connecticut.

[FR Doc. 84-24949 Filed 9-19-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 14, 1984.

The Department of Treasury has submitted the following public information collection requirements(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0074
Form Number: IRS Form 1040 and Related Schedules A, B, C, D, E, F, G, R, SE, & W
Type of Review: Revision
Title: U.S. Individual Income Tax Return
Clearance Officer: Garrick Shear (202) 566–6254, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3203, New Executive Office Building, Washington, DC 20503.

Joseph Maty,

Departmental Reports, Management Office.

[FR Doc. 84-24961 Filed 9-19-84; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on November 7, 1984, at 9:00 a.m., the Portland, Oregon Regional Office Station Committee on Educational Allowances shall at Room 1427, Federal Building, 1220 SW., Third Avenue, Portland, Oregon, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Phagan's Central Oregon Beauty College, Bend, Oregon, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: September 12, 1984.

Jack G. McReynolds,

Director, VA Regional Office, 1220 SW. Third Avenue, Portland, Oregon 97204.

[FR Doc. 84-24935 Filed 9-19-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 184
Thursday, September 20, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, September 25, 1984.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 84-07-FOIA-142-CH, concerning a request for information from a charge file.
4. Freedom of Information Act Appeal No. 84-06-FOIA-77-HU, concerning internal memoranda and investigator's note in a closed age case.
5. Freedom of Information Act Appeal No. 84-5-FOIA-113-CL, concerning a request for ADEA charge files which are administratively closed.
6. Freedom of Information Act Appeal No. 84-6-FOIA-84-SL, concerning a request for documents from an ADEA charge file.
7. Freedom of Information Act Appeal No. 84-7-FOIA-90-DA, concerning a request for a copy of a Title VII charge file.
8. Freedom of Information Act Appeal No. 84-6-FOIA-42-NO, concerning a request for a copy of 3 Title VII files.
9. Freedom of Information Act Appeal No. 84-7-FOIA-128-HQ, concerning a request for settlement information from a Title VII Commissioner's charge.
10. Proposed TERO Contracts for Fiscal Year 1985.
11. Proposed State and Local Program Contracts for Fiscal Year 1985.
12. Proposed Certification for the South Carolina Human Affairs Commission.
13. Proposed Revision to Federal Sector EEO Regulations.
14. Proposed Semi-Annual Regulatory Agenda.

Closed

1. Litigation Authorizaiton; General Counsel Recommendations.
2. Proposed Decisions, Settlements, and Subpoenas.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued September 18, 1984.

Dated: September 18, 1984.

Teva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-25075 Filed 9-18-84; 1:33 pm]

BILLING CODE 6750-06-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Items From September 13th Open Meeting

The following items have been deleted from the list of agenda items scheduled for consideration at the September 13, 1984 Open Meeting and previously listed in the Commission's Notice of September 6, 1984.

Agenda, Item No. and Subject

Common Carrier—2—Title: In the Matter of Interconnection Arrangements Between and Among Domestic and International Record Carriers. Summary: The Commission will consider whether to institute a rulemaking proceeding to investigate the need to extend under Section 201(a) certain interconnection arrangements it prescribed in its Interim Order. These interconnection arrangements are tied to Sections of the Record Carrier Competition Act of 1981, that sunset on December 29, 1984. (Deleted at the request of Common Carrier Bureau)

Common Carrier—3—Title: Second Report and Order, General Docket No. 80-112. Summary: The Commission will consider adopting rules to allow the use of lotteries for the selection of Multichannel Multipoint Distribution Service licensees. (Deleted at the request of the Office of Commissioner Rivera)

Common Carrier—4—Title: American Telephone and Telegraph Co., Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Telesis, Southwestern Bell and U.S. West—Accounting instructions for the judgment and other costs associated with the *Litton Systems* antitrust lawsuit. Summary: The Commission will consider the adoption of an Order to establish the proper accounting for an antitrust judgment and to clarify the accounting and disclosure requirements for litigation costs. (Deleted at the request of Common Carrier Bureau)

Private Radio—1—Title: Petitions for Partial Reconsideration requesting that repeater subband frequencies 52-54 MHz (6 meters) be made available for RACES in declared national emergencies. Summary: The Commission will consider whether to grant or deny the subject petitions and whether to amend the rules to include additional 6-meter repeater subband frequencies for RACES operations in wartime. (Dleted at the request of the Office of Commissioner Dawson)

Private Radio—2—Title: *Memorandum Opinion and Order* in the Matter of Licenses issued to Reuters Limited for Operation of 2.5-2.69 GHz Private Operational-Fixed Microwave Service Stations. Summary: The FCC will consider Reuters Limited's Application for Review of the Private Radio Bureau's order which set aside thirteen licenses granted to Reuters Limited and accorded Associated Information Services Corporations mutually exclusively status with the Reuters applications.

Mass Media—7—Title: A petition for reconsideration of the denial of the petition to deny filed against the renewal applications of WELR (AM & FM), Roanoke, Alabama, co-filed by the Concerned Citizens of Roanoke, Roy Terry, the National Black Media Coalition, and Puria W. Marshall and various related pleadings. Summary: The Commission considers a petition for reconsideration of the denial of a petition to deny the license renewal applications of WELR (AM & FM), Roanoke, Alabama. (Deleted at the request of Mass Media Bureau)

Issued: September 13, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-25047 Filed 9-18-84; 11:16 am]

BILLING CODE 6717-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5

U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, September 24, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,102-SR: American Bank & Trust Company, New York, New York

Memorandum re: Amendments to the Corporation's General Travel Regulations (GRT's).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)((6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 17, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-25063 Filed 9-18-84; 1:32 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, September 24, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Investors Thrift, an operating noninsured industrial bank located at 2 City Boulevard East, Orange, California.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda: No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 17, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-25064 Filed 9-18-84; 1:32 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:05 a.m. on Saturday, September 15, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Community Bank & Trust Company, Enid, Oklahoma, which was closed by the Oklahoma State Bank Commissioner on Friday, September 14, 1984; (2) accept the bid for the transaction submitted by the First National Bank and Trust Company of Enid, Enid, Oklahoma; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. H. Joe Selby, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 17, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-25065 Filed 9-18-84; 1:32 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, September 25, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, September 27, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential Primary Matching Funds
Draft Advisory Opinion 1984–42, Carl C. Perkins, Congressional Candidate
Finance Committee Report
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 84–25080 Filed 9–18–84; 2:28 pm]
BILLING CODE 6715–01–M

7

FEDERAL RESERVE SYSTEM

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, September 26, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 18, 1984.

James McAfee,
Associate Secretary of the Board

[FR Doc. 84–25117 Filed 9–18–84; 3:25 pm]
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AFRICAN DEVELOPMENT FOUNDATION

Board Meeting

TIME: 4:00 p.m.

DATE: September 28, 1984.

PLACE: 1724 Massachusetts Avenue, N.W., Suite 200, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report.
2. Program Committee Report, Dr. Blackshear, Chairman.
   A. Update FY 1984 approved grants.
   B. Discussion of philosophical issues regarding grant-funding process.
3. President's Report.
4. External Relations Committee Report, Mr. Arterbery, Chairman.
5. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Ms. Marge Cook, 634–9853.

Percy C. Wilson,
Vice Preisent.

September 18, 1984.

[FR Doc. 84–25076 Filed 9–19–84; 10:23 am]
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Federal Register

Thursday
September 20, 1984

Part II

Environmental Protection Agency

40 CFR Part 133

Secondary Treatment Regulation; Final Rule

40 CFR Part 122

National Pollutant Discharge Elimination System; Final Rule

40 CFR Part 133

Secondary Treatment Regulation; Availability of Comments and Additional Opportunity To Comment

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 133

[WH-FRL-2600-1]

Secondary Treatment Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends the secondary treatment regulation to reflect changes required by section 23 of the "Municipal Wastewater Treatment Construction Grant Amendments of 1981," (Pub. L. 97-117) and experience with the secondary treatment regulation by EPA and the States. The final rule makes the following changes in response to the 1981 Amendments.

- Defines a category of facilities eligible for treatment equivalent to secondary treatment as those facilities that use a trickling filter (TF) or waste stabilization pond (WSP) as a principal treatment process, and which cannot consistently meet secondary treatment requirements.
- Defines the minimum level of effluent quality attainable by such facilities during a 30-day period as an average value not to exceed 45 milligrams per liter (mg/l) for the pollutant parameters biochemical oxygen demand, 5-day (BOD_5) and suspended solids (SS), an average 7-day value for BOD_5 and SS not to exceed 65 mg/l and a percentage removal of BOD_5 and SS not less than 65 percent (30-day average).
- Provides procedures by which National Pollutant Discharge Elimination System (NPDES) permitting authorities may establish alternative State requirements (ASR) for facilities providing treatment equivalent to secondary treatment.
- Requires that the case-by-case adjustment of NPDES permits for publicly owned treatment works (POTWs) reflect the performance or design capbilities of the facility, and assures that water quality is not adversely affected, where treatment equivalent to secondary treatment is provided.
- Removes the 2 million gallons per day (mgd) flow limitation for WSPs eligible for adjustment of SS effluent limitations.

The final rule also amends the regulation to allow NPDES permitting authorities the option of substituting carbonaceous biochemical oxygen demand, five-day ($CBOD_5$) for BOD_5. Where the $CBOD_5$ parameter is used, the oxygen demand from secondary treatment is defined as a level of effluent quality that does not exceed an average $CBOD_5$ concentration of 25 mg/l in a period of 30 consecutive days and 40 mg/l in a period of 7 consecutive days. The $CBOD_5$ parameter may also be used by permitting authorities to establish effluent requirements for facilities providing treatment equivalent to secondary treatment.

The final rule adds a definitions section to the secondary treatment regulation for key terms and makes minor editorial changes.

These regulations were proposed for public comment in the Federal Register of November 16, 1983 (48 FR 52258 and 48 FR 52272).

EFFECTIVE DATE: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation will be considered issued for purposes of judicial review at 1:00 pm Eastern time October 4, 1984. The final regulation shall become effective November 5, 1984. In order to assist EPA to correct any typographical errors, incorrect cross references, and similar technical errors, comments of a technical or nonsubstantive nature on the final regulation may be submitted on or before November 20, 1984. The effective date of this regulation will not be delayed by consideration of such comments.

Under section 509(b)(1) of the Clean Water Act (the Act), any petition for judicial review of this regulation must be filed in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Act, the regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce its requirements.

ADDRESSES: The record for this rulemaking will be available for public review in the EPA's Public Information Reference Unit, Room 2004, 401 M St., SW, Washington, D.C. 20460. Copies of the "Technical Support Document for Regulations Under Section 304(d)(4)," may be obtained from the National Technical Information Service, Springfield, Virginia, 22161, (703) 487-6000.

FOR FURTHER INFORMATION CONTACT: William Kramer, Facility Requirements Division (WH-595), Environmental Protection Agency, Washington, D.C., 20460, (202) 382-7277.

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** Section of this preamble describes the legal authority and background for these amendments, summarizes the final regulation and changes from the proposed regulation, responds to public comments received on the proposed rulemaking and gives highlights on implementation of the regulation. The abbreviations, acronyms and other terms used in the **SUPPLEMENTARY INFORMATION** section are defined in Appendix A of this notice.

More detailed information on the following topics related to this rulemaking was included in the preamble to the proposed regulation: the legislative history of the Clean Water Act and the Municipal Wastewater Construction Grant Amendments of 1981; an overview of biological treatment systems; a technical discussion of alternative oxygen demand parameters for secondary treatment; and the data collection and analysis which supports this regulation. The above information, while still pertinent, is not reprinted to avoid duplication. The previous Federal Register notices for the proposed regulation (48 FR 52258 and 48 FR 52272) should be consulted for further information on these topics.

Also published elsewhere in today's Federal Register are final revisions to permit program requirements (40 CFR Part 122) that allow NPDES permits to be modified to reflect the limits contained in these revisions to the secondary treatment regulation.

Information in this premable is presented in the following order:

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I. Introduction

A. Statutory Authority

Section 301(b)(1)(B) of the Clean Water Act (CWA or the Act), 33 U.S.C. 1311(b)(1)(B), requires that publicly owned treatment works (POTWs) achieve effluent limitations based upon secondary treatment as defined by the Administrator of EPA pursuant to section 304(d)(1) of the Act. Section 304(d)(1), 33 U.S.C. 1314(d)(1), requires that the Administrator publish information on the degree of effluent reduction attainable through the application of secondary treatment within 60 days of enactment and from time to time thereafter.

Section 304(d)(4) of the Act, 33 U.S.C. 1314(d)(4), as amended by section 23 of the "Municipal Wastewater Treatment Construction Grant Amendments of 1981" (Pub. L. 97–117), (hereafter referred to as "1981 Amendments"), deems such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters as the equivalent of secondary treatment, and directs the Administrator to provide guidance under section 304(d)(1) on design criteria for such facilities, taking into account pollutant removal efficiencies. Section 304(d)(4) further requires that water quality not be adversely affected by deeming such facilities as the equivalent of secondary treatment.

B. Previous Regulation

The secondary treatment regulation was originally promulgated on August 17, 1983 [38 FR 22298]. Generally, it established levels of effluent quality for the parameters biochemical oxygen demand, SS, fecal coliform bacteria, and pH. Special consideration was provided for facilities subject to wet weather flows from combined sanitary and storm sewers, and facilities receiving high strength industrial wastes.

Two subsequent amendments promulgated on July 26, 1976 [41 FR 30788] and October 7, 1977 [42 FR 5665] provided for: (1) Deletion of the fecal coliform bacteria limitations and clarification of the pH requirement, and (2) special consideration for the SS effluent limitations applicable to WSPs with wastewater flows of less than 2 mgd.

The secondary treatment regulation defines "secondary treatment" as attaining an average effluent quality for both biochemical oxygen demand, five-day (BOD_5) and SS of 30 mg/l in a period of 30 consecutive days, an average effluent quality of 45 mg/l for the same pollutants in a period of 7 consecutive days, and 85 percent removal of the same pollutants in a period of 30 consecutive days. The effluent values for pH must be maintained between 6.0 and 9.0 unless certain demonstrations are made.

The regulation provided special consideration in three instances:

(1) Where secondary treatment works are affected by wet weather flows due to combined sewers, the percentage removal requirements may be adjusted;

(2) Where industrial contributions exceed 10 percent of the design flow, and the discharge of BOD_5 and SS by the industrial contributor permitted under sections 301(b)(1)(A)(i) or 306 of the Act would be less stringent than secondary treatment requirements, the 30-day and 7-day requirements for BOD_5 and SS may be adjusted; and

(3) Where WSPs are the sole process used for secondary treatment and wastewater flows are less than 2 mgd, Regional Adminstrators and State Directors may adjust the SS effluent limitations to reflect the effluent quality achieved 90 percent of the time within a State or appropriate contiguous geographic area.

The regulation (§ 133.104(a)) requires the use of sampling and testing procedures for BOD_5 and SS specified in guidelines promulgated pursuant to

sections 304(h) and 402 of the Act (40 CFR Part 136). The secondary treatment regulation also allowed use of chemical oxygen demand (COD) or total organic carbon (TOC) testing as a substitute for BOD_5 when a long-term BOD: COD or BOD: TOC correlation has been demonstrated.

II. Background

A. The Clean Water Act—Pub. L. 92-500 and EPA Response

Sections 301, 304 and 402 of the Act provide the basic structure for translating Congress' broad goal of eliminating "the discharge of pollutants into the navigable waters," [33 U.S.C. 1251(a)(1)] into specific requirements that must be met by individual point sources. Section 301(b) of the Act authorizes the Administrator to set effluent limitations for categories of point sources. For POTWs, section 301(b)(1)(B) of the Act requires the achievement of effluent limitations based on secondary treatment as defined by the Administrator in section 304(d)(1) of the Act.

Section 304 of the Act contains requirements for the Administrator to follow in issuing regulations, information and guidelines. In Section 304(d)(1) of the Act, the Administrator is directed to publish information on the "degree of effluent reduction attainable through application of secondary treatment."

Section 402 of the Act authorizes the establishment of the National Pollutant Discharge Elimination System (NPDES), under which every point source discharger of pollutants is required to obtain a permit. The permit requires the discharger to meet all the applicable requirements specified in regulations issued under §§ 301 and 304 of the Act.

With the exception of the SS adjustment for WSPs, the previous secondary treatment regulation did not address the type of technology used to achieve secondary treatment requirements.

B. Municipal Wastewater Treatment Construction Grants Amendments of 1981—Section 23 of Pub. L. 97-117

The full text of section 23 of Pub. L. 97-117 reads as follows:

(4) For the purposes of this subsection [section 304(d)], such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment. [33 U.S.C. 1314(d)(4)]

The legislative history for section 23 shows that Congress was concerned that EPA had not "sanctioned" the use of certain biological treatment techniques that are effective in achieving significant reductions of BOD and SS for secondary treatment. The amendment seeks to avoid the construction of costly new facilities where an alternative treatment technology, such as a TF and WSP, could achieve significant biological treatment. The legislative history supports the conclusion that the amendment would apply primarily to smaller communities, which could use TFs and WSPs that are not capable of consistently meeting effluent limitations based on current secondary treatment requirements, but still achieve significant biological treatment.

The Agency determined that it should consider the following based on the legislative history of section 23 of Pub. L. 97-117:

(a) Facilities deemed equivalent to secondary treatment consist of biological treatment facilities that are capable of achieving significant reductions in BOD and SS, but cannot consistently achieve existing secondary treatment requirements;

(b) Oxidation ponds and lagoons [i.e., waste stabilization ponds] and TFs are noted as examples of such facilities in both the Act and legislative history;

(c) Sophisticated and costly facilities built to achieve the current secondary treatment requirements are contrasted with "equivalent" biological facilities and technologies that are cheaper, easier to operate, but cannot consistently meet the current secondary treatment requirements;

(d) EPA has discretion under section 304(d)(1) of the Act in defining "facilities deemed equivalent to secondary treatment" and the degree of effluent reduction attainable by such facilities, but should also establish the criteria for such facilities based on design and pollutant removal efficiencies;

(e) The regulations should address variations in plant performance caused by geographic, climatic, or seasonal conditions;

(f) The provisions should be especially useful to smaller communities; and

(g) The use of an approach that sets technology-based effluent limitations based on assimilative capacity of receiving waters was rejected, and a "technology-based approach" maintained, but implementation of these provisions must include assurances that water quality will not be adversely affected.

C. Use of the $CBOD_5$ Parameter

The BOD_5 pollutant parameter (and its associated testing procedure) has been widely used to determine the operating efficiency and effluent quality of wastewater treatment facilities. The oxygen demand for the BOD_5 parameter is primarily exerted through the metabolism of organic matter by carbonaceous bacteria (resulting in a carbonaceous biochemical oxygen demand or CBOD), although an additional nitrogenous oxygen demand (NOD) may also be exerted through the action of nitrogenous bacteria that oxidize ammonia nitrogen to nitrate in a two-stage process known as nitrification. Commonly accepted water quality modeling and analytic techniques used to determine required treatment levels (i.e., secondary or more stringent levels) consider CBOD and NOD separately. Secondary treatment requirements are based on controlling the oxygen demand due to the carbonaceous component of the organic material in the effluent because secondary treatment facilities can effectively remove carbonaceous organic material but may not consistently remove ammonia.

Problems have arisen with the use of the BOD_5 test in many newer municipal secondary facilities. When sufficient numbers of nitrifying bacteria are present in the test sample they can exert a signifcant NOD in the BOD_5 test that would not be exerted in their absence. Since many of the factors conducive to improved secondary effluent quality are also conducive to the growth of nitrifying bacteria, the BOD_5 test can erroneously indicate poorer effluent quality when effluent quality and plant performance have actually improved. The phenomenon occurs in many newer secondary facilities. The Agency is aware that some facilities are being intentionally operated in a mode that inhibits the growth of nitrifying bacteria to improve BOD_5 test results and show compliance with secondary treatment requirements. These procedures usually result in poorer effluent quality (although BOD_5 test results indicate the opposite) and may often result in greater sludge production and higher operation and maintenance costs.

Alternative BOD testing procedures have been developed to correct for unintended measurement of NOD in the BOD_5 test. The use of a nitrification inhibiting agent was described in *Standard Methods of the Examination of Water and Wastewater, 15th ed.*

(American Public Health Association, Washington, D.C. 1980). The nitrification inhibited BOD_5 test or carbionaceous biochemical oxygen demand ($CBOD_5$ test, allows the oxygen demand due to metabolization of carbonaceous organic matter to be expressed, but eliminates any extraneous measurement of NOD. As a result a $CBOD_5$ test can be expected to provide a more consistent basis for evaluating plant performance and effluent quality.

In late July, the Agency amended to pollutant sampling and testing procedure regulation (40 CFR Part 136), which, among other things, included testing procedures for measuring $CBOD_5$ based on the *Standard Method* procedures.

The Agency is allowing substitution of the $CBOD_5$ parameter for the BOD_5 parameter, because it believes that this parameter is a better reflection of the understood meaning of secondary treatment in terms of measuring the removal of carbonaceous organic materials by secondary treatment for certain POTWs. In addition, the Agency believes that implementation of $CBOD_5$ test procedures should eliminate the counter-productive operating practices that were noted above since incidental nitrification will no longer affect test results.

D. The Proposed Regulation—November 16, 1983.

Proposed amendments to the secondary treatment regulation defining "equivalent treatment" were published in the Federal Register of November 16, 1983. A separate notice was published on that date to proposed amendments in response to the "1981 Amendments" and to allow use of the $CBOD_5$ pollutant parameter (48 FR 52258 and 48 FR 52272, respectively). This notice is the final rulemaking for both of these proposals. It should be noted that while today's final regulation includes a requirement that facilities providing treatment equivalent to secondary treatment achieve a 30-day average percent removal not less than 65 percent (§ 133.105 (a)(3), (b)(3) and (e)(1)(iii)), elsewhere in today's Federal Register the Agency is publishing a notice soliciting public comment on proposed revisions to the percent removal requirements in the secondary treatment regulation. The Agency has included the 65 percent removal requirement in today's final regulation to parallel the structure of the existing secondary treatment requirement for a percent removal, i.e., 85 percent (§ 133.102 (a)(3) and (b)(3)). The notice of availability solicits additional public comment on amendments to the percent removal requirement—both 85 percent and 65 percent. The Agency expects to promulgate a final decision on the percent removal issue within the next nine months.

The comment period for both proposals closed January 16, 1984. However, a number of comments were received after that date. All comments, including those received after January 16, 1984, were fully considered as part of the final rulemaking. A total of 75 comments were received in response to the proposed amendments implementing Pub. L. 97-117. Thirty comments were received in response to the proposal to allow use of $CBOD_5$. The changes to the proposals resulting from these comments, as well as a summary response to all comments, are discussed in the following sections of this notice.

The preamble for the proposed regulation pertaining to Pub. L. 97-117 also requested comments on the percent removal requirements for BOD_5 and SS in the secondary treatment regulation. Comments were requested of five questions designed to gather more information on use of the percent removal requirement. Since the agency did not make a specific proposal on the percent removal requirement and several commenters requested such a proposal prior to any final rulemaking, we are not promulgating any final revisions to the percent removal requirement at this time. The Agency will make its final decision on amendments to the percent removal requirement following the notice mentioned above and an opportunity for public comment.

III. Summary of Final Regulations and Changes From the Proposal

A. Changes From the Proposal

Since the regulation was proposed, it has been changed to respond to public comments. The reasons for the changes are discussed in more detail in sections IV and VI of the preamble.

Sections 133.101(f), 133.101(g), 133.105(d), 133.105(e)(1) and 133.105(e)(2)—The word "achieved" has been changed to "achievable" in the phrases "effluent concentration consistently achievable" and "effluent values achievable".

Section 133.103(b)—As proposed, this provision previously allowed adjustment of the 30-day BOD_5 and SS Concentration limitations where POTW's receive industrial wastes for which direct discharge standards are less stringent than the secondary treatment requirements. The provision has been modified to also allow adjustments under comparable circumstances for POTW's regulated by equivalent treatment standards or $CBOD_5$ standards. The provision also has been modified by adding a reference to section 301(b)(2)(E) of the Clean Water Act which will be the basis for an industrial discharger's effluent limitations for BOD_5 or SS for permits written after July 1, 1984.

Section 133.103(c)—As proposed, this provision previously allowed SS adjustments for WSPs which are the "sole" process used for secondary treatment. The phrase "sole process" has been changed to "principal process" to be consistent with the definition of facilities eligible for the equivalent treatment requirement (§ 133.101(g)(2)).

Section 133.105—The word "and" in the second sentence in § 133.105 has been changed to "or" to clarify that the provisions in §§ 133.103, 133.105(c) or 133.105(d) may be used individually to adjust the requirements for equivalent treatment in § 133.105 (a), (b), and (c).

Section 133.105(d)—This section has been changed to require the permitting authority to provide notice and opportunity for public comment when setting alternative State requirements for treatment equivalent to secondary treatment.

Section 133.105(e)—A new subsection has been added to allow case-by-case adjustment of the $CBOD_5$ values up to a maximum of 40 mg/l (30-day average) and 60 mg/l (7-day average) when $CBOD_5$ limits are used for equivalent treatment processes (i.e., TFs and WSPs). The provision also allows $CBOD_5$ to be used to set an ASR for treatment equivalent to secondary treatment.

Section 133.105(f)—Proposed as § 133.105(e) and redesignated as (f) in the final regulation, this subsection has been revised to more clearly state the requirement that the permitting authority may not establish limitations less stringent than the limitations required by § 133.105(a)-(e). The words "registered engineer's" have been changed to "permitting authority's" to clarify the intended meaning.

B. Summary of Final Regulation

Today's final rulemaking for the secondary treatment requirements involves the following amendments the Agency believes address the requirements of section 304(d)(4) of the Act: (1) A definition of "significant biological treatment" (§ 133.101(k)); (2) a definition of "facilities eligible for treatment equivalent to secondary treatment (§ 133.101(g)); (3) new provisions (§ 133.105 (a), (b) and (c)) which define the effluent quality

attainable by facilities eligible for treatment equivalent to secondary treatment; (4) new provisions (§ 133.105(d)) that set forth criteria that a permitting authority could use to establish alternative State requirements; (5) provisions for adjusting permits may be adjusted for equivalent facilities (§ 133.105(f)); and (6) changes to the eligibility requirements for adjusting the SS values achievable by WSPs (§ 133.103(c)).

The final rulemaking also provides permitting authorities the option to substitute $CBOD_5$ for BOD_5 by: (1) Defining the level of effluent quality achievable by application of secondary treatment in terms of $CBOD_5$ (§ 133.102(a)(4)), and (2) allowing the $CBOD_5$ parameter to be used for setting effluent limitations for treatment equivalent to secondary treatment (§ 133.105(e)).

Other amendments include the addition of definitions for key terms (§ 133.101), the addition of necessary cross-references to new provisions, and the elimination of redundant text. Such changes are not substantive in nature. The complete regulation, including unchanged regulatory language, is being printed for the sake of completeness to the reader. Except as noted for certain TF and WSP facilities and the optional use of the $CBOD_5$ parameter, the current secondary treatment requirements are not changed by this rulemaking.

1. Definition of Facilities Eligible for Treatment Equivalent to Secondary Treatment

The final rule uses the following criteria (§ 133.101(g)) to define a category of existing facilities that provide treatment equivalent to secondary treatment: (a) The facilities cannot consistently achieve secondary treatment as currently defined, (b) the facilities employ either a TF or a WSP as the principal biological treatment process, and (c) the facilities provide for significant biological treatment of raw wastewater (at least 65 percent removal of BOD_5).

a. *Inability of Facility to Consistently Achieve Secondary Treatment.* Under the final provisions (§ 133.101(g)(1)), only those TF and WSP facilities that cannot consistently meet secondary treatment requirements are eligible for a relaxation of the secondary treatment requirements.

b. *Use of TF or WSP as Principal Process.* An eligible facility must use a TF or WSP as the principal process for providing significant biological treatment (§ 133.101(g)(2)). The term "principal process" is used to indicate the major biological treatment components that are directly in the treatment process train, rather than ancillary components. By focusing on "principal" processes, the regulation does not exclude those facilities that incorporate minor components for improved treatment, e.g, the addition of covers, chemical feeds, solids contact processes for TF, or the addition of sand filters or aeration for WSPs, provided that the TF or WSP unit is the principal process that results in significant removal of BOD_5.

c. *Significant Biological Treatment.* Equivalent treatment works must provide significant biological treatment of wastewater. This provision ensures that the facilities applying for permit adjustments provide a level of treatment significantly beyond that achieved through primary treatment, i.e., physical separation and removal of grit, coarse sands, settleable, and floatable materials. Thus, TF and WSP facilities that do not provide significant biological treatment, e.g., roughing filters or equalization basins, do not meet the definition of significant biological treatment (§ 133.101(k)).

2. Minimum Level of Effluent Quality Attainable

Except for SS values for WSPs (§ 133.103(c)), the final rule defines treatment equivalent to secondary treatment attainable by TF and WSP facilities as a minimum level of effluent quality not to exceed 45 mg/l for BOD_5 and SS during a 30-day period, a minimum level not to exceed 65 mg/l for BOD_5 and SS during a 7-day period, and 65 percent removal of BOD_5 and SS on a 30-day average basis (§ 133.105 (a) and (b)). The 65 percent removal requirement is being promulgated as an interim final provision of the rule because the Agency is still considering amending the applicability of both the 85 percent and the 65 percent removal requirements. The Agency recently published a Notice of Availability soliciting additional public comment on this issue. The existing pH requirements for secondary treatment are not adjusted (§ 133.105(c)). Under § 133.105(b), the SS values for WSPs are established in accordance with existing § 133.103(c). Applicable SS values established under § 133.103(c) were published on November 27, 1978 [43 FR 55279] and are reprinted as Appendix B to this preamble as guidance. See section IV.F.1. of this preamble for a more complete explanation of SS values for WSPs.

3. Alternative State Requirements

The final rule allows the permitting authority to recommend (subject to EPA approval when the State is the permitting authority) alternative State requirements (ASR) for the 30-day and 7-day effluent BOD_5 and SS concentrations based on effluent concentrations consistently achieved through proper operation and maintenance of the "median" facility in a sample of facilities meeting the definition of "facilities eligible for treatment equivalent to secondary treatment" (§ 133.105(d)). This provision allows the permitting authority to account for geographic, seasonal and climatic conditions affecting plant performance. The permitting authority will provide notice and opportunity for comment before establishing an ASR.

4. NPDES Permit Adjustments

Specific numeric effluent limitations for an eligible facility would be established on a case-by-case basis by the permitting authority based on the design or performance capabilities of the given facility (§ 133.105(f)). In no case can the minimum levels of effluent quality established at the national level or an approved ASR level (133.105(a)–(e)) be exceeded or water quality be adversely impacted.

5. Substitution of $CBOD_5$

This final rulemaking provides permitting authorities the option of substituting the pollutant parameter $CBOD_5$ for the pollutant parameter BOD_5 in permits for secondary treatment facilities (§ 133.102(a)(4)). In substituting the $CBOD_5$ parameter for the BOD_5 parameter, the effluent concentrations specified in paragraphs 133.102(a)(1) and (a)(2) for BOD_5 are replaced with average $CBOD_5$ effluent concentrations of: (1) 25 mg/l in a period of 30 consecutive days (§ 133.102(a)(4)(i)); and (2) 40 mg/l in a period of 7 consecutive days (§ 133.102(a)(4)(ii)). $CBOD_5$ effluent concentrations for equivalent treatment processes (i.e., TFs and WSPs) can be set on a case-by-case basis where data are available up to 40 mg/l in a period of 30 consecutive days and 60 mg/l in a period of 7 consecutive days (§ 133.105(e)(1)). The $CBOD_5$ parameter can also be used to set ASR for treatment equivalent to secondary treatment where concurrent BOD_5 and $CBOD_5$ data are available (§ 133.105(e)(2)).

6. Suspended Solids Limits for WSPs

In 1977 EPA amended the secondary treatment regulation to allow an adjustment of the SS effluent limitations where a WSP is used as the sole treatment process, provided that the wastewater flow was less than 2 mgd. This final regulation eliminates the 2

mgd "cap" (§ 133.102(c) for reasons discussed at 48 FR 52255. The final regulation also changes the reference in the existing § 133.103(c) to BOD_5 effluent quality achieved by WSPs from § 133.102(a) ("Secondary Treatment") to § 133.105(a) ("Treatment Equivalent to Secondary Treatment").

7. Definitions

The final rule contains a "Definitions" section (§ 133.101) that allows short-hand reference to key terms. Where appropriate, the previous regulation now uses definitions to eliminate redundancies. For example, the terms "30-day average" and "7-day average" have been used in place of longer statements. Changes to the previous language in §§ 133.102 and 133.103 have been made for consistency and are not substantive in nature. In addition, cross-references have been added in previously promulgated sections of the regulation to reflect new amendments. For example, under the provisions for WSPs, references are made to § 133.105 ("Treatment Equivalent to Secondary Treatment").

IV. Responses to Comments on the Proposed Regulation

The Agency has responded to all comments raised by the public during the comment period. Responses to the comments are contained in a separate document, available at the address noted at the beginning of this preamble. This section of the preamble will set out and address those comments that have raised significant issues.

A. Definition of Trickling Filters (TFs) and Waste Stabilization Ponds (WSPs) as Facilities Eligible for Treatment Equivalent to Secondary Treatment

The Agency defined "facilities eligible for treatment equivalent to secondary treatment" as including either a TF or WSP as the principal treatment process in the system (§ 133.101(g)). A number of commenters objected to the inclusion of TFs and/or WSPs because such processes are capable of achieving present secondary treatment requirements. Other commenters objected to the definition being too restrictive, i.e., it should have included other treatment processes in addition to TFs and WSPs. These commenters suggested adding processes that provide significant biological treatment to equivalent technologies such as activated sludge, other fixed growth systems and physical-chemical treatment. Some commenters believed the definition should include industrial treatment plants.

These comments address one of the major issues in the proposed amendments to the secondary treatment regulation. The Agency collected extensive data and performed detailed analyses in reaching its determination regarding what facilities should be defined as providing treatment equivalent to secondary treatment. The preamble to the proposal discussed this work in detail but it is appropriate to review that work here as a further explanation of the basis for the Agency's selection of TFs and WSPs as those treatment processes equivalent to secondary treatment.

The Agency believes that any relaxation of secondary treatment requirements under section 23 of Pub. L. 97-117 by deeming a facility provides treatment equivalent to secondary treatment must be based on: (1) A determination that secondary treatment requirements cannot be met consistently through the use of a given biological treatment process, and (2) for such biological treatment process, a determination that a given facility cannot consistently achieve secondary treatment requirements. The following discussion describes the methodology by which a treatment process would be classified as capable of providing either "treatment equivalent to secondary treatment," or as capable of providing "secondary treatment" and the basis of determining the level of effluent quality that is attainable by facilities that: (1) Use an equivalent treatment process, and (2) cannot consistently achieve secondary treatment requirements.

In developing the definition of "facilities eligible for treatment equivalent to secondary treatment," the Agency took into account the specific references in the Act to biological treatment, TF's, WSP's, and oxidation ditches. As a further refinement and to ensure consideration of other types of biological treatment systems, EPA studied 324 existing biological treatment facilities to determine whether differences in wastewater characteristics, treatment process, design, size and age of facility, location, climate, or cost factors required the development of separate standards for certain classes of facilities.

The Agency analyzed at least two years of performance records from each facility, and described the operational limitations, process variability, and process reliability of each facility with respect to meeting the existing secondary treatment requirements. The sample included the following process types and number of facilities: conventional activated sludge (66), contact stabilization activated sludge (57,) extended aeration activated sludge (28), oxidation ditches (28), rock media TF's (64), plastic media TF's (17), rotating biological contactors (27), and WSP's (37).

The performance data for each of the 324 facilities in the data base were analyzed to estimate an effluent quality value which the given facility rarely exceeds on a monthly basis. Each of the facilities in the sample was classified by type of treatment process.

In accordance with the methodology described in more detail in the "Technical Support Document," the Agency concluded that TF and WSP treatment processes could not consistently meet secondary treatment requirements; thus, the TF and WSP treatment processes were classified as equivalent treatment processes. This classification is thus consistent with the statutory language that references oxidation ponds, lagoons and TF's.

Using the same methodology, the Agency concluded that oxidation ditches, although they are referenced in the statute, could consistently achieve an effluent quality equal to or better than current secondary treatment requirements. Further, the legislative history characterizes equivalent treatment processes as: (1) Simpler, more energy efficient and easier to operate than standard methods, and (2) unable to meet secondary performance standards consistently. [S. Rep. No. 97-204, 97th Cong., 1st Sess. 18 (1981); H.R. Rep. No. 97-30, 97th Cong. 1st Sess. 34-35 (1981).] The Agency finds that oxidation ditches are appropriately classified as a treatment process capable of meeting the current secondary treatment requirements. All other biological treatment processes were likewise found to be capable of consistently achieving secondary treatment requirements, and are thus classified as treatment processes capable of providing secondary treatment.

The Agency has thoroughly considered all the comments on this issue and has concluded that its methodology and decisions were appropriate and correct. The Agency has not made changes in the treatment processes it defines as equivalent to secondary treatment.

The legislative intent of Congress behind the 1981 Amendments to the Act were aimed at providing relief for smaller communities. The Senate Report specifically states that the 1981 amendments only address municipal wastewater treatment. It is clear that equivalent technologies should not be

applied to industrial facilities. Section 304(d) of the Act requires that the EPA publish information on the degree of effluent reduction attainable through application of secondary treatment. The factors considered in setting effluent limitations for industrial dischargers under section 304(b) of the Act are distinct from those of the 304(d) criteria. In consideration of these statutory differences, EPA clearly has authority to establish different effluent limitations for municipal and industrial discharges.

B. Water Quality Impacts

Some commenters expressed concern that allowing less stringent limits for TFs and WSPs would adversely affect water quality.

Section 23 of Pub. L. 97–117 requires the Agency to assure that water quality will not be adversely affected by deeming facilities equivalent to secondary treatment. The Agency believes that the regulation includes a number of measures which will prevent such adverse affects on water quality. The measures include: (1) An "anti-backsliding" provision which holds facilities to their present level of treatment capability when it is better than that specified for equivalent treatment and (2) development of permit limits for new TFs and WSPs to assure that such facilities are designed and operated in accordance with current design practice. In addition, the Agency's permit regulations currently require that any effluent limitations established in NPDES permits result in compliance with applicable water quality standards. Thus, no adjustment of a TF's or WSP's effluent limitations is allowed where a violation of water quality standards would result. Permit writers are also encouraged to develop seasonal permits for equivalent treatment processes to assure that a facility is operated at its maximum capability throughout the year.

C. Categorization of Processes Equivalent to Secondary Treatment

Other commenters opposed the establishment of a category of treatment processes equivalent to secondary treatment because they believe that determination of permit limitations based on a facility's capabilities: (1) Places permit writers and permittees in adversarial positions and (2) creates inequities among communities and from State-to-State.

The Agency notes that section 23 of Pub. L. 97–117, in deeming TFs and WSPs the equivalent of secondary treatment, effectively requires EPA to establish in 40 CFR Part 133 a category of processes which cannot consistently meet the current secondary treatment requirements. We believe that the regulations' use of existing permit procedures will help to minimize difficulties with implementation since permittees, States, and EPA already have considerable experience with these procedures. The States and EPA already have issued, and will continue to provide, guidance to permit writers on specific permit procedures and performance capabilities of TFs and WSPs to help assure consistency in implementing the equivalent treatment provisions. Furthermore, as noted in section IV.F.5, the Agency has taken a number of steps in developing and implementing this regulation to minimize inequities. A discussion of these measures is presented in that section.

D. Discharge Requirements for Ocean Dischargers and Facilities With Increases in Wet Weather Flows

The Agency also received comments which indicated a need to develop separate criteria for ocean dischargers and for POTWs which are subject to short term increases in flow during wet weather.

Variances from secondary treatment for ocean dischargers have been addressed by Congress in section 301(h) of Pub. L. 92–500 and the regulations promulgated by the Agency to implement section 301(h) already provide procedures by which separate criteria can be established for ocean dischargers. The deadline for 301(h) applications was December 29, 1982 (section 301(j)(1)(A)).

With regard to increases in flow during wet weather, § 133.103(a) of this regulation provides for special "wet weather" consideration for treatment works which receive flows from combined sewers. The Agency is also considering proposals to change the percent removal requirement of the regulation.

E. Applicability to New Facilities

A number of commenters stated differing views on whether the definition of facilities eligible for treatment equivalent to secondary treatment should include new facilities. Six commenters agreed with the EPA Science Advisory Board position stated in the preamble to the proposed regulation that new TFs can be designed to meet the current secondary treatment requirements and thus should not be eligible for equivalent treatment requirements. Three commenters took a similar position concerning new WSPs. One commenter stated that applying the equivalent treatment requirements to new TFs and WSPs would cause a major shift away from activated sludge processes. The commenter believed this to be inappropriate because of recent improvements in the activated sludge process in terms of its feasibility for small communities. Other commenters took the opposite view concerning new facilities. Three commenters indicated that equivalent treatment standards need to be applied to new TFs and WSPs to ensure their future use by small communities. One commenter believed even more aggressive measures need to be taken to encourage use of new TFs and WSPs.

EPA feels it is necessary and appropriate to allow equivalent treatment requirements for new TFs and WSPs in order to ensure their continued use. The Agency believes it is the clear intent of section 23 of Pub. L. 97–117 to encourage continued use of TFs and WSPs, particularly because of the energy, cost and operational benefits they offer for small and moderate-sized communities. The Agency also believes that the construction of new TFs and WSP has been limited since 1972 because they have difficulty in meeting the current secondary treatment regulation. While the Science Advisory Board is correct in asserting that new TFs can be designed to meet the existing secondary treatment requirements, it appears that such processes are often considered not as reliable as other secondary treatment processes.

The requirement that the permitting authority set standards for new TFs and WSPs based on current design practice will ensure that such facilities are designed and operated to their full capability. The Agency further believes that while it is important to actively encourage new TFs and WSPs, such measures will not cause a major shift away from other processes such as activated sludge. Section 23 of Pub. L. 97–117 was intended primarily to recognize that smaller communities using TFs or WSPs generally have less capability to meet secondary treatment standards than large communities have to achieve more stringent levels of treatment. Activated sludge and other currently used biological and physical-chemical treatment processes will undoubtedly continue to be widely applied, particularly by larger and more densely settled communities, because of their smaller land requirements and their adaptability to the variety of situations encountered by municipal dischargers.

F. BOD and SS Limitations for Treatment Equivalent to Secondary Treatment

1. Appropriateness of Selected Limitations

Nineteen commenters agreed that the BOD_5 and SS limitations proposed for treatment equivalent to secondary treatment (§§ 133.105 (a), (b) and (c)) are a correct and reasonable characterization of TF and WSP performance capability. Wisconsin indicated that all TFs and WSPs in Wisconsin are capable of achieving the existing 30 mg/l BOD_5 and SS limitations with only minor excursions.

While the State of Wisconsin disagreed with the effluent concentrations specified for equivalent treatment on the grounds that TFs and WSPs in its State could do better, four other States which did similar analyses indicated that the values in § 133.105 are an accurate description of TF and WSP performance in their States. EPA does not dispute the analysis done by the State of Wisconsin, but attributes this difference primarily to the variations in design criteria used in various States. The values indicated in § 133.105 were developed from a nationwide sampling of facilities and could logically differ from the values observed in a particular State.

2. Case-by-Case Approach to BOD and SS Limitations

Several commenters did not support the proposed effluent limitations in § 133.105 and suggested alternatives for determining the treatment requirements for equivalent treatment on a case-by-case basis. The comments included the following recommendations: (a) Retain existing secondary treatment requirements and allow case-by-case adjustments based on facility's capability and the effects of climate on its operation; (b) case-by-case adjustments should not exceed a facility's present mass discharge assuming 30 mg/l BOD_5 and SS were being achieved and should be allowed only after assuring that existing secondary treatment limits cannot be achieved through industrial pretreatment and/or reasonable additions to the facility; (c) case-by-case adjustments should be temporary and require achieving the existing 30 mg/l BOD_5 and SS within 5–10 years; and (d) case-by-case adjustments should be based on a certification of meeting specified design and operation criteria instead of numerical limits.

The use of a case-by-case approach as suggested by several commenters does not disagree in principle with the method selected by the Agency to implement the equivalent treatment provisions. The differences are mainly in the degree to which the case-by-case approach is applied and the criteria used in applying the case-by-case decisions. The case-by-case aspects of the equivalent treatment methodology being promulgated by EPA include: (1) Use of technology based "not to exceed" effluent limitations which allows States the flexibility to set their standards at any appropriate value between the existing secondary treatment requirements and the national limits for equivalent treatment; (2) and anti-backsliding requirement to hold facilities to their existing level of treatment when it is more stringent than the national or State requirements for TFs and WSPs; (3) use of the permitting authority's experience for setting requirements for new TFs and WSPs that could be more stringent than national or State levels if achievable based on the permitting authority's assessment of design capability and geographical and climatic conditions; (4) authorization of alternative State requirements to account for variations in performance from State-to-State, and (5) assuring compliance with applicable water quality standards when permit limitations for equivalent treatment facilities are established or revised. The Agency, however, believes that it is also important to establish numerical values which describe TF and WSP performance on a nationwide and, where appropriate, Statewide basis. These values, which can be applied directly to many facilities eligible for permit adjustments, greatly speed and simplify the permitting and compliance monitoring processes and provide a relative degree of national and Statewide consistency.

The Agency does not agree with the comment which advocated limiting the mass discharge from facilities using equivalent treatment limitations to the existing level based on achieving 30 mg/l BOD_5 and SS. The comment that permit limitations should revert back to existing secondary requirements recommends a similar approach. Such requirements would provide only limited relief to those facilities which are presently underloaded or can significantly reduce influent flows by means of sewer rehabilitation or water conservation. The Agency does not believe that such limited measures are consistent with the intent of Congress in enacting section 23 of Pub. L. 97–117. As indicated elsewhere in this notice, the anti-backsliding requirement of § 133.105(f) will minimize any increases in mass loadings resulting from implementation of these provisions. Also assurances that water quality standards must be maintained will preclude increases in mass loadings which could be detrimental to receiving waters.

One of these same commenters recommended that adjustments for equivalent treatment be allowed only after assuring that the existing secondary treatment limits cannot be achieved through industrial pretreatment and/or reasonable additions to the facility (i.e., chemical addition for TFs or aeration for WSPs). The Agency agrees that, where applicable, permitting authorities must consider the effect of pretreatment as part of their determination of "effluent values achieved through proper operation and maintenance of the treatment works" (§ 133.105(e)). As discussed elsewhere in this section of the preamble, the Agency's position on additions to TFs and WSPs is that additions should be used where necessary for a TF or WSP facility to meet its applicable standards, but should not be required for all facilities.

3. Seasonal Effluent Limitations

Five commenters recommended use of seasonal effluent limitations for equivalent treatment (i.e., allow less stringent limits only during cold weather) to assure maximum performance of facilities on a year round basis.

The Agency agrees that permit writers should consider seasonal effluent limitations on a case-by-case basis. Seasonal limitations are particularly encouraged in those situations where significant improvement in effluent quality can be achieved to enhance receiving water quality. However, requiring seasonal limitations for all dischargers would unnecessarily complicate the permitting process while achieving only relatively minor reductions in the amount of pollutants discharged. Seasonal limitations are also discussed in other parts of this notice.

4. Use of 7 and 30 Consecutive Day Averages

Two commenters objected to specification of 7 and 30 consecutive day averages because their use would require continuous calculation of rolling averages if applied directly for permit monitoring and compliance purposes. These commenters believe that it is more appropriate to use weekly and monthly averages in the secondary treatment regulations. Similarly, one commenter stated that the 7-day average

is not meaningful for smaller facilities which sample two times per month or less.

The Agency believes that the use of 7 and 30 consecutive day averages is necessary to accurately analyze and describe treatment plant performance for standard setting purposes. However, this does not preclude the current practice of using appropriate calendar measurements for permit monitoring and compliance. Thus the regulation being promulgated today in no way impairs the permit writers ability to use permit monitoring and compliance procedures appropriate for small facilities.

5. Sixty-Five Percent Removal

Two commenters disagreed with the 65 percent removal requirement in the equivalent treatment limitations and stated that percent removal is not an appropriate measure of acceptable treatment performance.

The Agency included a percent removal requirement in the equivalent treatment limitations to parallel the current definition of secondary treatment. The Agency selected 65 percent based on removal efficiencies studied prior to proposal (see 48 FR 52264). However, the Agency recognizes that certain equivalent treatment facilities with very dilute influents may experience difficulties with the 65 percent removal requirement which are similar to those resulting from the 85 percent removal requirement for secondary treatment. A recently published Notice of Availability solicits additional comment on the percent removal requirements in the secondary treatment regulation.

6. Setting Standards Based on the Median Facility

Seven commenters disagreed with setting the effluent limitations for equivalent treatment based on the performance of the median facility. Four of the commenters took the view that use of the median facility is too restrictive and excludes 50 percent of the plants eligible for equivalent treatment requirements. The other three commenters took the opposite position. These commenters believed that use of the median facility is not sufficiently restrictive and gives the impression that too many TFs and WSPs cannot meet the existing secondary treatment requirements.

The analysis used to develop effluent limitations for equivalent treatment (i.e., 95th percentile value for the median facility) was selected by the Agency because it is a statistically valid method for assessing the performance of wastewater treatment facilities.

In this analysis, the number of facilities which cannot achieve the effluent requirements are reduced because the median value is based on only those TFs and WSPs which were not achieving the existing secondary treatment requirements. Furthermore, States have the authority to set alternative requirements where the national values do not adequately account for TF or WSP performance in their State. Likewise, it is also agreed that a significant number of facilities are by definition capable of better performance than effluent limitations which are set by using the median facility. However, the regulation being promulgated today holds facilities to their existing level of performance when they are achieving better effluent quality than allowed for equivalent treatment.

7. Operation and Design of Facilities

Two commenters questioned whether the facilities used for the analysis were properly designed and operated. Another commenter suggested that EPA evaluate the design and operation of the facilities considered in the analysis to determine why those in group A (average BOD and SS less than or equal to 30 mg/l) performed better than those in group B (average BOD and SS greater than 30 mg/l).

Where a particular facility had erratic or questionable performance data, the design and operational criteria were individually evaluated. Using this procedure, a number of facilities were excluded from the analysis because they were not properly designed or operated.

However, it was not practical nor necessary for the Agency to conduct a detailed evaluation of design and operational criteria for all 324 facilities used in the analysis.

8. Distinguishing Between Different TFs and WSPs

One commenter suggested that the analysis should distinguish between different types of TFs and WSPs (i.e., standard rate and high rate TFs and facultative and aerated WSPs).

The Agency agrees that performance capabilities vary for different types of TFs and WSPs. However, other factors such as climate and State design standards can also similarly affect performance capability. For this reason separate analyses and limitations which account for all the factors that affect TF and WSP performance would not be practical for setting national standards. However, the permitting authority may consider such factors when setting limitations for individual facilities or developing alternative State requirements.

9. Statistical Analysis

Several commenters questioned why the 90th percentile is used for setting SS for WSPs (§ 133.103(c)) and the 95th percentile is used for equivalent treatment limitation (§ 133.105).

The 95th percentile/median facility methodology requires at least two years of data for a statistically significant number of facilities. These data were available in the case of the limitations developed for treatment equivalent to secondary treatment. Only a limited amount of data were available to set SS limitations for WSPs on a State-by-State basis in 1977 when these limitations were set. A more rigorous analysis using the 95th percentile value for the median facility is possible for other pollutant parameters for which there is design and operational control, such as BOD_5 and SS from TFs and BOD_5 from WSPs.

10. Separate BOD and SS Limitations

One commenter stated that the BOD and SS limitations should be developed separately. Using this approach, BOD and SS limitations would not necessarily be the same numerical values.

The Agency performed separate analyses for BOD_5 and SS limitations. While the derived values were not exactly the same, they were close enough to result in the same numerical values when rounded off for the purpose of standards setting. This result is consistent with the fact that the ratio of SS to BOD in biological secondary effluents is typically 1:1, except for WSPs, where the ratio can be 3:1 or greater. This fact is currently addressed by higher State-by-State SS limits set in accordance with § 133.103(c).

G. Alternative State Requirements (ASRs)

1. The Process

Several commenters supported the proposed ASR approval methodology. One commenter objected and suggested that States should apply to EPA with supporting data for ASRs and that EPA should then propose and promulgate ASRs once the satisfied values are correct. Further, the commenter suggested that ASRs should have an expiration date, in order to keep the public involved and have flexibility to allow for changes in the state-of-the-art.

We cannot concur with the suggestion for EPA promulgation because the proposed process will provide for full public involvement and a promulgation requirement would unnecessarily add to the Agency's burden of issuing regulations at a time when the Agency is

attempting to streamline its existing regulations and avoid unnecessary new ones and delegate water quality management program administration to the States.

The Agency intends that the ASR approval process will be similar to the process used in setting SS limitations for WSPs. The State shall submit preliminary data and analysis to the Agency to insure that the State's preliminary assessment is correct. Upon preliminary review by the Agency, the State must provide notice and opportunity for public comment on its proposed ASR. After considering the public comments, the State will then resubmit its data and analysis on the proposed ASR for final EPA approval. The EPA Regional Office will notify the State of approval. The Agency, will publish the approved ASRs in the Federal Register as a notice to the public.

Regarding the suggested promulgation of a date by which ASRs must be submitted for approval, we believe this would be too rigid and unnecessary. EPA will amend the secondary treatment regulation, including allowances for State adjustments, from time to time as the state-of-the-art changes. The ASR methodology also allows States to request EPA approval for revised ASRs at any time additional data becomes available.

2. ASR Methodology and State Flexibility

Two commenters said the Agency should give States flexibility in establishing ASRs.

We believe that the regulations provide sufficient flexibility. The Agency has specified the overall approach in § 133.105(d) and provided guidance on statistical sampling and analysis in the technical support document. This avoids unnecessarily rigid requirements for the analytical process and at the same time assures that the States will be reasonably consistent in their approaches.

3. ASR Guidelines

One commenter called for EPA issuance of specific ASR guidelines for use by the States in establishing alternative requirements; these guidelines should be publicly reviewed prior to their use by the States.

The Agency believes that the ASR guidelines in the technical support document are sufficently detailed to assure reasonable consistency among the States. More specific detailed ASR guidelines might not apply to some State situations and their specificity might actually curtail their usefulness. Furthermore, the requirement in § 133.105(d) that ASRs must be approved by EPA provides an additional check to assure that States have properly implemented the ASR methodology. Under the adopted approach, the ASR requirements and guidelines are actually part of the regulations and the technical support document. Thus, these requirements and guidelines have already been publicly reviewed prior to application.

4. Winter Data and ASRs

One commenter noted that ASR methodology would result in an extreme value if only wintertime data were used for the 20 data points necessary to determine the 95th percentile. Using this approach, the ASR would be the second highest value occurring during five years of wintertime operation.

We agree. The Agency intended that representative year-round data (i.e., data for all seasons for at least 20 consecutive months) be used to determine 95th percentile performance of a given treatment facility.

5. Contiguous Geographical Area

One commenter asked whether the reference to "appropriate contiguous geographical area" requires one State to use another State's data in establishing ASR's, particularly when the neighboring State's design criteria are less stringent?

The Agency's answer to this question is no. A State is allowed, but not required, to use data from adjacent States for its ASR analysis.

H. NPDES Permit Adjustments

1. Objections to the Regulation's Anti-Backsliding Provisions

Several commenters favored allowing equivalent treatment facilities producing higher quality effluents than the "not to exceed" 45 mg/l, 30-day average limits to blackslide to this limit. They believe this anti-backsliding provision (§ 133.105(f)(1)) is inequitable for facilities which have made a concentrated effort to maximize treatment and unnecessarily complicates the permit writer's task since it is doubtful that the State, EPA, and the community will all agree on what standards an existing facility can meet.

The Agency strongly supports retention of the anti-backsliding provision in this regulation because it ensures that for facilities at design flow, levels of effluent quality that are already achieved by a facility must be maintained to avoid increased pollutant loads. (Underloaded facilities are further addressed in the next section.) Further, some TFs designed to meet effluent limitations more stringent than the 45 mg/l, 30-day average limits, have involved investments in special features, additional facilities or added capacities necessary to ensure attainment of the limits. Allowing such facilities to backslide would negate the pollution control benefits produced by the investments in those extra features. We note that the permitting authority will make the final decision as to the effluent quality attainable from an existing facility.

2. Anti-Backsliding Relative to Additional Flows

Several commenters observed that if effluent limitations for facilities which are presently below design capacity are set at the level of their current performance, these facilities would be restricted from accepting the additional flows for which they were designed. They favored setting effluent limitations achievable at design capacity.

The anti-backsliding provision of the NPDES permit adjustment process does not restrict an underloaded facility from moving toward its design capacity as the commenters suggest. If a plant is currently underloaded in terms of its design conditions, it is appropriate for the permit effluent limitations to reflect the actual flow condition plus the expected increase during the permit term. For most facilities with minor flow increases over the permit term, the expected flow volume approach should be adequate for permitting. However, in some situations such as new facilities, permits with a two-tier permit approach could be used. The two-tier permit would have separate permit limits for the current flow condition and the ultimate flow expected during the permit term (pollutant limits established for the ultimate flow must be as least as stringent as the limits established for the current flow). In no case can the pollutant limits be less stringent than allowed by Part 133.

The Agency notes that it is clearly not our intent that the above approach be used for facilities which are presently at their design capacity. Permit limits for facilities which are at design capacity must require that the present level of treatment be maintained. These facilities will not be allowed to "backslide" to 45 mg/l BOD_5 and SS as a means of allowing additional flows to the plant.

3. By-Passing

Another commenter noted that some facilities eligible for equivalent

treatment requirements are presently by-passing wastewater flows in order to achieve the present secondary treatment limitations. This commenter supported adjusting effluent limitations for these facilities to those achievable when treating presently by-passed flows. We agree that the effluent limitations should be adjusted to account for those attainable when the by-passed flows are treated.

4. Minor Components Which Improve Performance

One commenter notes that the preamble to the proposed regulation indicates that TF/WSP facilities with "add-ons" (i.e., covers for TFs and sand filters or aeration for WSPs) are not excluded from the provisions for equivalent treatment. The preamble also states that add-ons can significantly improve TF/WSP performance at a relatively low cost. This commenter requested the Agency's position concerning add-ons, particularly whether the improved performance resulting from add-ons should be considered when setting the equivalent treatment limitations for a facility.

The Agency's position is that where add-ons are already in place for existing equivalent facilities, the permitting authority generally should consider the performance of the overall treatment facility including the add-ons, when setting the effluent limitations. However, in the case of chemical addition for trickling filters, facility performance can be determined without considering the chemical addition because the Agency would not want to force continued use of chemical addition in light of its high operation costs and adverse impacts on sludge management. The permitting authority need not consider the increased performance capabilities resulting from add-ons when setting effluent limitations for new equivalent treatment facilities. Nevertheless, for new facilities, advances in the state-of-the-art (e.g., use of plastic media to improve the efficiency of the biological reaction or flocculation channels to improve clarifier efficiency) should be considered where data are available to the State for standards-setting purposes.

One commenter stated that the Agency should not require the use of add-ons for TF/WSP unless needed for water quality purposes. As previously discussed, the Agency does not require the use of add-ons for new TF/WSP but does require accounting for their performance effects in establishing effluent limitations for existing equivalent treatment facilities. We agree, however, that add-ons should be actively encouraged as means of allowing smaller communities to use TFs or WSPs to meet more stringent water quality-based limitations.

5. Permitting New Facilities

Several commenters noted that the procedure for establishing effluent limitations for new facilities is unclear and that new facilities can be designed to achieve different levels of treatment. They asked when the level of treatment for new facilities would be set (i.e., prior to design or after operation commences) and who would set the discharge standards (i.e., the permitting authority or the design engineer). They also noted that use of the term "registered engineer" in § 133.105(e)(2) incorrectly implies that the design engineer, not the permitting authority, establishes permit limitations for new facilities receiving equivalent treatment standards.

The Agency concurs that procedures for setting limits for new equivalent treatment facilities should be clarified and has done so as explained below. First, we have always intended that the permitting authority, not the design engineer, should establish the limits for such facilities based on its permitting experience. The regulations have been changed to clarify this point. Second, the permitting authority, using the criteria in § 133.105(f)(2), should develop separate sets of effluent limitations to be applied to new TFs and WSPs within a State or contiguous geographical area. Third, in developing these standards, the permitting authority should analyze performance data in its State or geographical/climatic region for recently constructed facilities, and consider advances in the State-of-the-art as reflected in the Agency's technical bulletins and technology transfer publications. We suggest an analysis of performance data for recently built facilities similar to that the Agency used for setting the standards in the regulation for existing facilities. This analysis should be done initially by each State at the time this regulation is promulgated and from time-to-time thereafter to account for any advances in technology. The results of these analyses (in terms of achievable effluent quality for new TFs and WSPs) would be disseminated to municipal officials and design engineers within the State for planning and design purposes.

Additional guidance on setting permit limitation for new TFs and WSPs is contained in the Technical Support Document. As indicated in that document, the permitting authority's assessment of TF and WSP performance, based on current design practice, should be done initially by each State at the time this regulation is promulgated and from time-to-time thereafter to account for any advances in technology.

Finally, the implementation of the proposed rule will not alter the typical facility planning process as it now exists. When a community undertakes its analysis to determine the most cost-effective treatment process, the community's engineer will estimate the costs of building a TF facility based upon achieving effluent standards specified by the NPDES permitting authority. Should the community choose to build a TF facility, the community's engineer must then design the facility to comply with the standard set by the permitting authority.

6. Inequities From Case-by-Case Decisions

Two commenters suggested the Agency should guard against the inequity of "penalizing" facilities already in compliance while "rewarding" other facilities not in compliance with less stringent standards (particularly those discharging to the same stream). They said more specific guidance is necessary to avoid inconsistencies and inequities among States and among facilities.

Since we share these equity concerns, we have taken steps to minimize inequities although they cannot be entirely avoided. First, effluent limitations for new equivalent treatment facilities will be set uniformly on a State or area-wide basis. While effluent limit differences may result where States set alternative requirements, we anticipate that relatively few States will exercise this option and that ASRs will only marginally exceed the national values. In the vast majority of cases, any differences will be limited by the 45 mg/l BOD_5 and SS values set in the regulation. Effluent limit differences among existing facilities based on the anti-backsliding provisions will exist. However, these differences will be limited largely to variations of operation and maintenance requirements and costs among facilities. Such variations among equivalent treatment facilities would not be great because wide disparities of operation and maintenance costs would not be expected within similar types and sizes of facilities.

7. Assuring That Water Quality Will Not Be Adversely Impacted

Some commenters asked that the Agency clearly articulate that permit adjustments for equivalent treatment will not be allowed if water quality will be adversely impacted; the procedure

for providing this assurance must be clearly specified and implemented prior to making individual permit adjustments.

The Agency shares this concern and has therefore already included a provision in its NPDES permit regulations requiring that any effluent limitations established in permits result in compliance with applicable water quality standards, State effluent requirements, and other provisions of the Act.

I. Two MGD Flow Limitation for WSPs Eligible for Effluent SS Adjustments

Some commenters opposed the proposed removal of the 2 mgd flow limitation for WSP effluent. They noted that removing the "cap" will provide an incentive for construction of these facilities in areas which would have otherwise installed more effective systems. Further, applying equivalent treatment requirements (i.e., BOD_5 and SS limits for both TF and WSP) to larger facilities could cause serious environmental harm; equivalent treatment requirements should be limited to small facilities (i.e., 2 to 3 mgd).

The Agency believes that the legislative history for Pub. L. 97–117 encourages the use of TF and WSP technologies, and indicates that they would be particularly useful in small communities. The legislative history did not, however, suggest limiting application of these technologies to any particular size of community or flow.

Agency experience with WSPs indicates that very few WSPs have been constructed to handle flows in excess of 2 MGD. WSPs are not generally considered cost-effective for large flows due to the large land areas required. In addition, the WSP effluent strength would still be restrained by the local water quality standards.

One commenter asked whether removal of the 2 mgd flow cap applies to both aerobic and facultative WSPs. The Agency's answer is yes. WSPs include pond types in accordance with the terminology section of the EPA technical bulletin, "Wastewater Treatment Ponds" (EPA 430/9–74–011). Specifically included are aerated as well as facultative ponds.

J. Requests for Clarification of Regulation Language or Structure

1. Suspended Solids (SS) Limitations

One commenter requested clarification of the regulation language to indicate whether SS limitations for ponds could exceed the 45 mg/l, 30-day average value set for trickling filters. The commenter advocates such flexibility.

Wastewater stabilization ponds SS limitations may exceed the 30-day average, 45 mg/l SS limit where alternative limits are specified in accordance with 133.103(c). (See § 133.105(b)). A notice of EPA approved alternative SS limits for WSPs was published in the Federal Register on November 27, 1978 (43 FR 55279), and is reprinted as Appendix B of this preamble. These alternative limits are listed on a State-by-State basis and reflect the site-specific nature of each geographical area with respect to the characteristics which influence WSP suspended solids. In summary, the State now has three options for setting SS limitations for WSPs: (1) Use the existing values previously set under § 133.103(c) and published Appendix B to this Notice; (2) reevaluate pond SS data for their State under the revised § 133.103(c) and request EPA approval to use a different value than indicated in Appendix B; or (3) set the limitations at any value between those specified in § 133.102(b) (i.e., 30 mg/l, 30-day average and 45 mg/l, 7-day average) and those specified in § 133.105(b) (i.e., 45 mg/l, 30-day average and 65 mg/l, 7-day average).

One commenter suggested that the pH limitation does not need to be listed as part of the equivalent treatment requirements because it is the same as the pH requirement for secondary treatment facilities. We disagree with this suggestion; the equivalent treatment provision includes a specific reference to the pH requirements to clearly indicate that these requirements, even though unchanged, apply to eligible TFs and WSPs.

2. Implementation and Applicability

One commenter asked what limits would apply where a new equivalent treatment process is installed to treat all or part of the flow at a facility that formerly used the activated sludge process exclusively. Similarly, another commenter noted that equivalent treatment standards should be allowed for new TF/WSP which replace existing activated sludge facilities when water quality will not be adversely impacted. The commenter observed that significant savings in energy and operating costs would result.

The Agency's response is that effluent limits would be set in accordance with the regulation provisions for new equivalent treatment processes. As discussed elsewhere in this section of the preamble, the permitting authority would use its judgment based on performance capabilities of similar facilities in its State or region to establish effluent limitations for new facilities.

A commenter suggested clarifying the point that the use of a minimum of two years of data to assess a facility's performance was for standard setting purposes only and not for compliance purposes. The commenter noted that such a requirement would interfere with compliance and enforcement efforts. We agree that the two year data collection effort for a large group of facilities focused on standard setting only. Timely enforcement and compliance decisions for individual facilities must depend on a shorter term data base.

One commenter asked, when septic tank effluent collection systems are used in conjunction with trickling filters and ponds, will the pollutant removals achieved by the on-lot septic tanks be credited toward the 65 percent removal required for equivalent treatment?

The Agency's answer to this question is yes, provided that the wastewater influent flow from the septic tanks are properly accounted for and documented. The Agency agrees that the pollutant removals provided by onsite systems such as septic tanks, could be accounted for in the calculation of percent removal where reliable compliance monitoring data for the onsite systems can be assured. In such situations the influent flows from the onsite systems would need to be properly accounted for and documented. This would require a relatively complex monitoring and data gathering effort by the POTW authority. Furthermore, such an arrangement is only feasible in cases where the POTW authority is responsible for the operation and maintenance of both the onsite systems and the central treatment pond (as in the case of special districts set up to handle onsite systems).

3. Construction Grants Funding

Some commenters asked, what level of construction grant funding will be allowed for new facilities in States which have stringent requirements for equivalent treatment than the national values, and will advanced treatment reviews be required for these facilities?

In response to these questions, new equivalent treatment facilities with effluent limits more stringent than the "not to exceed" values for equivalent treatment would be fully eligibile for grant funding. Further, advanced treatment reviews will be required only as provided in the Advanced Treatment Policy published in the Federal Register on May 21, 1984, at 49 FR 21462.

4. Construction Grants Priority Lists

One commenter concluded that the proposed change in secondary treatment effluent limitations for TFs will probably result in the removal of many old outdated TF facilities from the construction grants priority list. Many of these facilities (normally over 10–15 years old), are probably nearing the end of their design life, and they will eventually need to be replaced. At that time the municipality may have to pay the entire cost. Therefore, deferral could result in greater economic hardship for the municipality.

We concede that deferral of replacement of trickling filters could result in increased capital costs which the municipality must bear if Federal funding becomes unavailable. Nevertheless, this capital cost increase would be largely offset by two factors. First, with the new regulations in effect, the municipality could likely build a replacement trickling filter or pond with lower capital and operation costs than otherwise required for a secondary treatment facility. Second, during the deferral period the municipality will have realized monetary benefits from the foregone increased operation and maintenance costs for the prospective replacement secondary treatment facility.

5. Special Considerations

Two commenters suggested that § 133.103(b) be amended to add a reference to section 301(b)(2)(E) of the Clean Water Act.

The Agency agrees with the commenters and has added the reference to section 301(b)(2)(E). Section 133.103(b) allows for upward adjustment of POTW permit limitations for BOD_5 and SS in cases where the POTW receives wastes from an industrial category that would be allowed less stringent limitations for BOD_5 and SS than allowed under the secondary treatment regulation, if the industry was a direct discharger subject to limitations based on best practicable control technology currently available (BPT) (section 301(b)(1)(A)(i)), or new source performance standards (section 306). Referencing section 301(b)(2)(E) recognizes that for permits written after July 1, 1984, the BOD_5 and SS percent limitations will be based on best conventional pollutant control technology (BCT) rather than BPT.

K. Optional Substitution of $CBOD_5$ Parameter for BOD_5 Parameter

1. Comments on the Use of the $CBOD_5$ Parameter

Thirty four commenters supported use of the $CBOD_5$ to measure performance of secondary treatment facilities. Three commenters opposed use of the $CBOD_5$ measure of treatment plant performance in lieu of the traditional BOD_5 measure. One commenter noted that the "1981 Amendments" do not authorize a change in the BOD test procedure.

We agree that these amendments do not specifically authorize such a change. Nevertheless, the Clean Water Act gives the Agency administrative authority to make technical changes, such as that for the BOD parameter, in the secondary treatment regulations as necessary. Specifically, section 304(d)(1) directs the Administrator to publish within 60 days (and from time to time thereafter) information on the degree of effluent reduction attainable through the application of secondary treatment.

2. Need For More Research

Another commenter called for more research and a more extensive data base before allowing use of the $CBOD_5$ test. The commenter's data shows that the standard method test for inhibited BOD affects the carbonaceous oxidation reaction as well as inhibiting nitrification.

We do not concur because the preponderance of the available research literature conclusively shows that the chemical used for inhibiting nitrification 2-chloro-6 trichloromethyl pridine (TCMP) in the standard method test for inhibited BOD_5 does not significantly affect the carbonaceous oxidation reaction during the 5-day test period. Although TCMP does inhibit carbonaceous oxidation somewhat for tests longer than 5 days, it still affects the carbonaceous reaction less than other possible inhibitors.

One commenter advocated investigating the effects of nitrite in the inhibited $CBOD_5$ test before adopting the $CBOD_5$ parameter for measuring secondary treatment plant performance. This commenter noted that a significant amount of nitrite remains in the effluent of the treatment plant where he is the chief operator. He pointed out that, because TCMP does not inhibit the conversion of nitrite to nitrate, use of the Standard Methods $CBOD_5$ test procedure does not indicate the true $CBOD_5$ for wastewaters where nitrite is present.

We agree that the Standard Methods $CBOD_5$ test procedure does not effectively inhibit the conversion of nitrite to nitrate and could result in less accurate results when used on wastewaters with significant amounts of nitrite present. However, we believe that the situation cited by the commenter is fairly unique and may be a result of the particular operating conditions for his facility (i.e., limited oxygen to complete the nitrification reaction or presence of a substance which selectively inhibits the conversion of nitrite to nitrate). Virtually all the municipal wastewater data reviewed by the Agency indicated little or no nitrite was present in nitrified effluents. For this reason the Agency believes that a change or delay in implementing the $CBOD_5$ provisions of the secondary treatment regulation is not warranted. We recommend that the commenter consider applying to EPA for an alternative test procedure as provided for by § 136.4 of the Agency's regulations on test procedures for the analysis of pollutants (40 CFR Part 136).

3. When to Use the $CBOD_5$ Test

Another commenter stated that the inhibited test is needed to measure $CBOD_5$ only if a facility's effluent is partially nitrified. To support this belief, the commenter observes that well designed and operated facilities which nitrify should achieve complete nitrification, thereby eliminating ammonia that could affect standard BOD test results. He therefore concludes that partial nitrification results from design or operational deficiencies and that such problem facilities should be evaluated to improve operation and maintenance rather than changing to an inhibited ($CBOD_5$) test procedure.

The Agency cannot concur with that line of reasoning for two reasons. First, Agency performance data for well operated secondary treatment plants shows that partial as well as "complete" nitrification often occurs during warm weather. Oxidation of the substantial ammonia remaining within a sample of a partially nitrified effluent will markedly increase apparent BOD_5 measures with the standard BOD_5 test. Second, even when "complete nitrification" occurs, the remaining ammonia nitrifying and bacteria in the effluent sample in combination with ammonia from the test dilution water can measurably affect standard BOD test results.

4. Optional Substitution of $CBOD_5$ Parameter for BOD_5 Parameter

Several commenters favored mandatory substitution of the $CBOD_5$ parameter. They noted that years of research and actual field experience have shown that $CBOD_5$ is the only

proper indicator of oxidation of organic pollutants in the secondary treatment process. They concluded that, without an across-the-board substitution, the existence of two secondary treatment BOD standards and the potential for inconsistent application by permitting authorities, will generate significant additional confusion, operational difficulties and administrative problems. Also, by making the $CBOD_5$ test procedure optional, they stated that the Agency is merely shifting responsibility for deciding on the appropriate procedure to the States, many of which will not adopt the $CBOD_5$ parameter even though CBOD is the technically correct measure. These commenters noted further that measures can be taken to overcome potential problems associated with mandatory use of the $CBOD_5$ test. These include: (a) Requiring both BOD_5 and $CBOD_5$ tests for a time to avoid any discontinuity in data when switching to the $CBOD_5$ test and (b) changing permits when they are reissued to avoid the administrative burden of changing all permits at one time.

The Agency agrees the $CBOD_5$ test is a more accurate measure of organic carbonaceous oxygen demand than the BOD_5 test. Nevertheless, at this time the Agency decided not to require an across-the-board mandatory substitution of the $CBOD_5$ for the BOD_5 parameter because it believes that problems arising from the use of the BOD_5 parameter may not be experienced in all cases. Furthermore, some States may wish to evaluate the impact of nitrogenous oxygen demand on BOD tests before deciding to use $CBOD_5$. The current proposal allows States to change to the $CBOD_5$ parameter wherever the BOD test provides erratic results and, at the same time, gives them administrative flexibility in writing their permits.

5. Need to Consider Nitrogenous Oxygen Demand (NOD)

Several commenters expresed their concern that NOD exerted by secondary plant effluents in the receiving waters be properly accounted for. Some of these commenters, while agreeing that the inhibited ($CBOD_5$) test is the correct measure of $CBOD_5$, noted that a $CBOD_5$ standard ignores the major oxygen demand exerted by ammonia in municipal wastewater. They concluded therefore that secondary treatment standards should include limitations for NOD as well as $CBOD_5$. Others stated the Agency should require ammonia measurements for water quality modelling and regulatory purposes whenever the $CBOD_5$ test is used. This would allow NOD impacts to be correctly assessed.

We agree that NOD accounts for the majority of the oxygen demand remaining in the effluent once secondary treatment is achieved. However, we do not concur with the notion that a $CBOD_5$ standard ignores the major NOD exerted by ammonia as well as the conclusion derived therefrom that secondary treatment standards should include NOD as well as $CBOD_5$ limits. While ammonia in wastewater may potentially exert significant NOD, NOD in the receiving waters depends on the characteristics of those waters as well as the ammonia concentration of the effluent. In fact, many waters under certain temperature, flow and other conditions exhibit low NOD (nitrification). Some waters exhibit little or no NOD under all conditions. Therefore, the determination of whether NOD reduction is required should be a case-by-case decision for each receiving water segment, and should not be applied across-the-board. If the permitting authority determines that dissolved oxygen (DO) criteria for a specific receiving water would be violated by a discharge of secondary effluent, then treatment more stringent than secondary, with NOD (ammonia) reduction as appropriate, will be required. With or without the $CBOD_5$ provisions in the secondary treatment regulation, permitting authorities would use similar procedures to determine that the receiving water is indeed effluent limited, e.g., NOD is not causing violations of DO criteria.

Regarding the comment advocating requirements for effluent ammonia measurements whenever the $CBOD_5$ test is used, we agree that such measurements should be taken wherever ammonia could cause violations of water quality standards. In fact, such measurements are required for these conditions. The need for measurements, however, does not depend on the testing procedure used, i.e., $CBOD_5$ or BOD_5, but on the NPDES permit requirement set for such discharges.

One commenter supported, as a prerequisite for using the $CBOD_5$ parameter, site specific evidence that NOD is causing higher BOD_5 values so that the alternate test will not be used to obscure non-compliance due to inadequate treatment.

The Agency notes that the regulation allows, but does not require, the permitting authority to use the $CBOD_5$ test on a site specific basis where NOD in the effluent is shown to be a problem. We do not believe such site specific evidence should be required because the $CBOD_5$ test, even if universally applied, provides a much more accurate, reliable measure of oxygen demand created by carbonaceous organic pollutants than the BOD_5 test. In fact, the BOD_5 test may give erratic or misleadingly high BOD_5 values when nitrification or incipient nitrification occurs in the treatment facility. This situation can and often does lead to large BOD_5 values for high quality effluent, particularly during warm weather when nitrification is most likely, contrasted with lower BOD values for poorer quality effluent from treatment facilities lacking nitrification capability. To avoid any unintentional tendency toward non-compliance or standard relaxation due to use of the $CBOD_5$ parameter, the Agency has set an effluent standard of 25 mg/l for $CBOD_5$ compared with a standard of 30 mg/l or higher for the BOD_5 parameter. This 5 mg/l difference reflects results of the Agency's comparative statistical analysis of BOD_5 versus $CBOD_5$ test results for a selected group of secondary plants operated during cool weather conditions. This analysis is explained in greater detail elsewhere in this section of the preamble.

L. $CBOD_5$ Effluent Limitations

1. The 25 mg/l (30-Day Average) $CBOD_5$ Effluent Limitation

Several commenters opposed setting a more stringent $CBOD_5$ standard than the 30 mg/l standard for BOD_5 and suggested instead a simple substitution of $CBOD_5$ for BOD_5, with the secondary treatment definition remaining at 30 mg/l of $CBOD_5$. These commenters cited several reasons for their position. First, the BOD_5 test and secondary treatment standards for BOD_5 have always intended to measure CBOD only. Substituting the $CBOD_5$ test procedure merely provides a more accurate measure of what has always been intended. Second, a more extensive data base is needed before deciding on a 5 mg/l difference between $CBOD_5$ and BOD_5. EPA should run a series of side-by-side tests on a number of municipal effluents to conclusively determine what difference, if any, there is between $CBOD_5$ and BOD_5 values. Third, the Agency should have analyzed the difference, if any, between $CBOD_5$ and BOD_5 values for facilities where BOD_5 results were affected by nitrification. The uninhibited BOD_5 values for these facilities would be greater than 30 mg/l (e.g., 35 mg/l). Applying the 5 mg/l difference to these facilities would give a $CBOD_5$ standard equal to or greater than the BOD_5 standard (e.g., 35 mg/l

BOD_5 minus 5 mg/l equals 30 mg/l $CBOD_5$). Fourth, correctly performed tests on non-nitrified effluents will give identical BOD_5 and $CBOD_5$ results. The critical period is warm weather when nitrification is occurring; at this time the difference is much greater than 5 mg/l. Finally, because the standard deviation of $BOD_5/CBOD_5$ test results is relatively great (i.e., not a high degree of statistical accuracy), the 5 mg/l difference is not statistically valid.

We have no basis for agreeing or disagreeing with the first point, since the Agency did not specifically evaluate NOD effects on BOD testing at the time the secondary treatment standards were set. However, we do not agree simple substitution of $CBOD_5$ for BOD_5 is correct because it is likely that the BOD_5 data used to set the 30 mg/l BOD_5 (i.e., the $CBOD_5$ standard equal to 30 mg/l) standard inadvertently included some NOD. Even though the frequency of the NOD effects on BOD_5 testing has increased in recent years, we believe that partial nitrification may have been occurring at some of the treatment plants initially considered in setting the secondary treatment standards. Thus, it is likely that the BOD_5 standard would have been slightly less than 30 mg/l if only CBOD was actually measured as intended. The 5 mg/l difference between BOD_5 and $CBOD_5$ measurement determined by the Agency from side-by-side $BOD_5/CBOD_5$ supports this view.

In regard to the second point, EPA has analyzed parallel BOD_5 and $CBOD_5$ data from secondary treatment facilities achieving at least the 30 mg/l BOD_5 requirements for BOD_5. These data were obtained for 26 facilities under critical cool weather conditions similar to those governing the 30 mg/l BOD_5 standard. Under cool weather conditions, which typically govern design of secondary treatment facilities, populations of nitrifying bacteria would be low and incipient nitrification would be minimal. The Agency used simple linear regression analyses to express the best fit of the $CBOD_5$ and BOD_5 data in terms of a linear equation. The several analyses showed a close fit between the data and line of best fit as indicated by coefficients of determination ranging from 0.89 to 0.93 (1.0 represents perfect fit and 0.0 represents no fit). These analyses provided a solid basis for predicting $CBOD_5$ values ranging from 24–27 mg/l corresponding to a BOD_5 value of 30 mg/l for a well operated secondary treatment plant operated during cool weather (wastewater temperature less than 20 °C). Accordingly, the Agency believes the selected 25 mg/l $CBOD_5$ value represents a statistically valid equivalent to a 30 mg/l BOD_5 value for cool weather plant operation when nitrifier bacteria populations are low; therefore, the 25 mg/l $CBOD_5$ parameter is appropriate and necessary to prevent any unintentional relaxation of secondary treatment performance requirements that might otherwise result from changing to the $CBOD_5$ standard.

The third unintentionally misstates the issue. The $CBOD_5$ parameter should not be set based on the significant nitrification expected at a secondary treatment facility during warm weather because secondary treatment standards are set on the basis of the most critical cool weather conditions when nitrification is minimal. Therefore, the Agency analyzed the parallel $CBOD_5$ and BOD_5 data accordingly. Further, BOD_5 test results are usually erratic when nitrification or incipient nitrification occurs during warm weather. Therefore, little or no correlation exists between warm weather BOD_5 and $CBOD_5$ data.

The commenters' fourth point is that correctly performed tests on non-nitrified effluents will give identical BOD_5 and $CBOD_5$ results. We agree this statement is theoretically true for non-nitrified effluents without the presence of nitrifier bacteria. However, as indicated by the Agency's parallel $CBOD_5$ and BOD_5 data, enough nitrifiers are usually present in secondary effluents during cool weather to measurably increase the uninhibited BOD_5 measurement a small amount above that for $CBOD_5$. The Agency believes this is a particularly important point since this phenomenon most likely had a similar effect on the data used to initially set the 30 mg/l BOD_5 standard in the secondary treatment regulation. We also acknowledge that the difference between BOD_5 and $CBOD_5$ during warm weather when nitrification is occurring is often much greater than 5 mg/l. In fact, under these conditions the value of one parameter cannot be reliably estimated based on data for the other.

In regard to the fifth point, we concede that the derivation of the 5 mg/l difference between the BOD_5 and $CBOD_5$ parameters is not statistically precise. Nevertheless, the several analyses collectively indicate that the actual difference is lilely to be between 3 and 6 mg/l. The adopted difference of 5 mg/l therefore represents a reasonable estimate.

2. Alternatives to the Uniform 25 mg/l $CBOD_5$ Effluent Limitation

One commenter supported allowing States to set $CBOD_5$ standards comparable to the 30 mg/l BOD_5 standard instead of the optional uniform 25 mg/l $CBOD_5$ standard established by the Agency. Another commenter favored allowing the permitting authority to set comparable $CBOD_5$ standards on a facility-by-facility basis.

We believe these comments have some merit. However, application of a uniform standard for $CBOD_5$ less than that for BOD_5 will prevent unintentional relaxation of secondary treatment requirements where States choose to use the $CBOD_5$ test. Also, State-by-State or case-by-case standard setting, with resource requirements for supporting data collection and analysis, may discourage some permitting authorities from adopting the $CBOD_5$ parameter.

3. $CBOD_5$ Standards for Equivalent Treatment Processes

Some commenters advocated application of the $CBOD_5$ standard for TFs and WSPs, with this standard remaining at the 45 mg/l (30-day average) value adopted for BOD_5.

We agree in part with this comment. The Agency should not prevent application of the $CBOD_5$ parameter to TFs and WSPs because it is more accurate than the BOD_5 standard. A numerical $CBOD_5$ standard for TFs and WSPs was not intentionally excluded from the proposed rulemaking. The Agency had calculated the proposed CBOD numbers of 25 mg/l based on its studies of existing secondary treatment facilities concentrating on application of the $CBOD_5$ standards to those facilities. The Agency agrees with the comments, however, the regulation should allow each permitting authority the flexibility to adopt for TFs and WSPs either the 25 mg/l $CBOD_5$ parameter (30-day average) applied to secondary treatment facilities or to set higher $CBOD_5$ standards for TFs and WSPs in the range of 25 mg/l to 40 mg/l, after the permitting authority has collected and analyzed parallel $CBOD_5$ and BOD_5 data submitted by the permittee. The range cap of 40 mg/l, 5 mg/l less than the 45 mg/l BOD_5 standard, reflects results of the Agency's analyses of parallel BOD_5 and $CBOD_5$ data for secondary facilities. Those analyses showed that $CBOD_5$ results will be a small amount (5 mg/l estimate) less than those for BOD_5 during cool weather. We expect the $CBOD_5$ test results for TF/WSP would be a small amount less than parallel BOD_5 values. States are also permitted to use $CBOD_5$ to develop alternative requirements for treatment equivalent to secondary treatment. (See §§ 133.105(e) (1) and (2).)

4. Use of $CBOD_5$ for Advanced Treatment Limitations

Some commenters asked for clarification concerning the use of $CBOD_5$ for advanced treatment effluent limitations and whether States have authority to use the $CBOD_5$ parameter to set effluent limitations more stringent than secondary treatment. One commenter asked what, if any, difference between BOD_5 and $CBOD_5$ limitations would apply to advanced treatment (more stringent than secondary $CBOD_5$) limitations (i.e., comparable to the 5 mg/l difference between BOD_5 and $CBOD_5$ for secondary).

Concurrent promulgation of this regulation and the Agency's permit regulations, in addition to promulgation of final changes to the Part 136 test procedures regulation, now allow use of the $CBOD_5$ parameter for all municipal facilities including advanced treatment, secondary treatment and equivalent treatment facilities.

First, we note that nothing in this final rulemaking changes current Agency policies or procedures with regard to advanced treatment permits or requirements. We have, however, provided the following discussion to clarify the use of $CBOD_5$ for advanced treatment limitations. With the concurrent promulgation of this regulation and the Agency's permit regulations, and subsequent promulgation of final changes to the Part 136 test procedures regulation, permitting agencies can use $CBOD_5$ limitations and monitoring procedures for secondary, equivalent treatment and advanced treatment municipal permits.

The Agency notes that advanced treatment effluent limitations are derived through the water quality analysis process called a wasteload allocation. The equations used for the DO analysis part of the wasteload allocation include a term, $CBOD\mu$, which represents the ultimate carbonaceous oxygen demand of the wastewater effluent. The wasteload allocation determines the allowable value of the $CBOD\mu$ term for a given DO criterion for the receiving water. In turn, the permit writer translates the $CBOD\mu$ term into the $CBOD_5$ term included in the permit by applying the appropriate $CBOD\mu$: $CBOD_5$ ratio (the Agency's wasteload allocation guidance explains these ratios). Accordingly, advanced treatment effluent limitations for $CBOD_5$ are simply and directly derived from the wasteload allocation process.

If the permit would include BOD_5 rather than $CBOD_5$ term, no technically correct method exists to account for the NOD_5 component of BOD_5 in translating the wasteload allocation result for $CBOD\mu$ to BOD_5. This situation occurs primarily because the wasteload allocation must represent critical conditions, generally including low stream flows and warm receiving water temperatures. During such warm weather periods, wastewater effluent, particularly advanced treatment effluents, are at least partially nitrified (ammonia oxidized to nitrate) and nitrifiers are present in the effluents. As explained previously, such effluents will produce erratic and unpredictable BOD_5 test results because they include widely varying NOD_5 components. Thus, an across-the-board numerical adjustment (such as the 5 mg/l adjustment for secondary treatment during cool weather) cannot be reliably applied to translate either $CBOD\mu$ or $CBOD_5$ values for warm weather to BOD_5 results. Given the above, the Agency recommends that advanced treatment permits include the $CBOD_5$ parameter. If the BOD_5 parameter is nevertheless used instead, the permitting authority should use analyses of performance data for the treatment facilities or similar facilities, along with its judgment, for translating wasteload allocation results into the permits' BOD_5 limitations.

M. Comments on Portions of the Regulation Not Addressed by the Proposed Rulemaking

Some comments addressed the SS limitations for ponds. One commenter favored allowing SS adjustments for WSP preceded by other treatment processes. We disagree because the amended secondary treatment regulations for ponds published November 7, 1977, allowed adjustment of the SS limitations for WSPs only where they are the principal process used for secondary treatment. That amendment did not apply to polishing or holding ponds preceded by other biological or physical/chemical treatment processes. The Agency concludes there is not a basis for removing this restriction.

Another commenter suggested that States will have to re-evaluate WSP suspended solids limitations because the criteria for developing these limits change under the proposal. The Agency neither intends nor do the regulations require the States to re-evaluate SS limitations for WSP even though the regulation now includes a new "not to exceed" 45 mg/l BOD_5 limit (30-day average) for WSPs. Nevertheless, when reviewing its BOD_5 limits for WSPs, the State may, and is indeed encouraged to, review its SS limits as well. An additional explanation of SS limits for WSPs is presented in section IV.F.1. of this preamble.

One commenter noted the "proposed limit" of 95 mg/l for WSPs suspended solids for the State of California is too stringent because a number of California WSPs exceed that value part of the year. We would note that the 95 mg/l limit for California is an already established limit. The State may review this limit whenever it believes such review is necessary.

V. Implementation of Final Regulations

A. Treatment Equivalent to Secondary Treatment

1. Modification of Effluent Ranges

The final regulations establish a minimum level of effluent quality attainable by treatment equivalent to secondary treatment (proposed §§ 133.105 (a), (b) and (c)) with further provision that individual permits be adjusted to reflect plant performance capabilities (§ 133.105(f)). As an alternative to the effluent concentrations for BOD_5 and SS specified in §§ 133.105 (a)(1), (a)(2), (b)(1) and (b)(2), the permitting authority can recommend alternative effluent requirements that reflect the performance of TF and WSP facilities within a State, more accurately than the national limits. This provision (§ 133.105(d)) provides States with the flexibility to take into account additional local factors, and thus be consistent with Congressional intent that the Agency consider geographic, climatic, and seasonal factors affecting plant performance.

The WSP permit adjustment for SS concentrations (§ 133.103(c)) provides a precedent for allowing States to participate in setting an ASR by assessing the performance of local treatment works. In order to implement a similar process in an expedited manner, the regulation authorizes a Regional Administrator or if appropriate a State director, subject to EPA approval, to determine the effluent concentrations consistently achieved by TF and WSP facilities in accordance with a methodology set forth in §§ 133.105(b), 133.101(f), and 133.101(g). EPA retains responsibility for approving any ASR suggested by a State, and may veto any non-conforming permit (40 CFR 123.44(c)).

A Regional Administrator, or State, would have to demonstrate that: (1) Only TF and WSP facilities eligible for treatment equivalent to secondary treatment (§ 133.101(g)) are included in the analysis, and (2) the recommended

ASR should reflect the effluent concentrations consistently achieved by the median facility in a representative sample of facilities within a State or appropriate contiguous geographical area. Application of the criteria ensure that alternative requirements are developed in the same manner as used by EPA in developing the national numbers. In developing alternative requirements, Regional Administrators and States may consider disaggregation of the sample of eligible facilities based on significant differences in climate (or geography), seasonal performance, or variations in the type of TF or WSP employed. For each disaggregated sample, however, the criteria specified in § 133.105(d) would have to be satisfied.

The permitting authority should submit data to the Agency for a preliminary analysis to see if the permitting authority has performed the proper analysis. After preliminary review the permitting authority must provide notice and opportunity to comment on its initial findings and proposed ASR. After considering the comments the permitting authority will submit its data and analysis and proposed ASR to the Agency for final approval. Upon final approval of the ASR, the Agency intends to publish values in the Federal Register. Since the implementation of the alternative State requirements provision would involve application of the regulatory criteria set forth in proposed § 133.105(d) during the NPDES permit process, EPA will not be proposing or promulgating the approved ASR.

2. Case-by-case Adjustments of NPDES Permits

In the preamble for the proposed regulation, the Agency stated that it may be more appropriate to promulgate the proposed provisions on permit adjustments (§ 133.105(f)) as an amendment to the permit regulation (40 CFR Part 122). None of the commenters expressed an opinion on this matter. The Agency has decided to promulgate the provisions on permit adjustments for treatment equivalent to secondary treatment as part of the secondary treatment regulation. This is being done so that all the regulatory provisions specifically for establishment of treatment equivalent to secondary treatment are promulgated in one place in the Code of Federal Regulations.

a. *Performance and Design Capability Factors.* For facilities that meet the eligibility requirements (§ 133.101(g)), the regulations allow the permitting authority to set more stringent effluent limitations for an individual treatment facility based on the performance capabilities of the treatment works (§ 133.105(f)). However, in no case would the individual NPDES effluent limitations be set at values less stringent than those established at the national levels (§§ 133.105 (a), (b), and (c)) or those established through procedures for alternative State requirements (§ 133.105(d)). (For those TF and WSP facilities that do not meet the eligibility requirements, i.e., a TF that can consistently achieve the current secondary treatment requirements, the permit would not be adjusted.)

These provisions are intended to ensure that increased concentrations of pollutants do not result from facilities that are currently achieving a significantly higher degree of pollutant removal than would be allowed at the minimum level of established effluent quality, i.e., 45 mg/l BOD_5 and SS on a 30-day average basis. It is important to note here that the essence of the permit adjustment procedure is not to sanction increased levels of pollutant discharges, but to encourage the continued use of existing facilities using equivalent treatment processes and minimize unnecessary or untimely facility upgrading. Thus, levels of effluent quality that are already achieved by a facility must be maintained (§ 133.105(f)(1)).

The effluent limitations should reflect the effluent quality achievable by a facility based on present performance capabilities. However, if a plant is currently underloaded in terms of its design conditions, it is appropriate for the permit effluent limitations to reflect the actual flow conditions plus the expected increase during the permit term. For most facilities with minor flow increases over the permit term, the expected flow volume approach should be adequate for permitting. However, in some situations such as new facilities, permits with a two-tier permit approach could be used. The two-tier permit would have separate permit limits for the current flow condition and the ultimate flow expected during the permit term (pollutant limits established for the ultimate flow must be as least as stringent as the limits established for the current flow). In no case can the pollutant limits be less stringent than allowed by Part 133.

b. *NPDES Permits for New Facilities.* In developing permits for new TF and WSP facilities, the permitting authority should consider the ultimate design capability of the treatment process, geographical and climatic conditions and the performance capabilities of recently constructed facilities in similar situations. Data available in the technical support document and record for this regulation provide an indication of the performance capabilities of recently constructed facilities using TF and WSP processes.

As indicated in the technical support document, the Agency believes that on a national basis new TFs are capable of achieving 30 day average values of at least 35 mg/l BOD_5 and SS. This recognizes that new facilities can perform better than their predecessors, but is also consistent with the intent of section 23 of Pub. L. 97-117 to encourage lower cost and simpler technologies for small and moderate sized communities.

However, it must also be recognized that due to varying temperature conditions, particularly when minimum influent wastewater temperatures are in the range of 13 °C or less, even new TFs may not be able to consistently achieve 30 day average values of 35 mg/l for BOD_5 and SS.

The permitting authority's assessment of TF and WSP peformance, based on current design practice, should be done initially by each State at the time this regulation is promulgated and from time-to-time thereafter to account for any advances in technology. The results of these analyses (in terms of achievable effluent quality for new TFs and WSPs) then should be made available to municipal officials and design engineers within the State for planning and design purposes.

c. *Water Quality Assurances.* Section 23 of Pub. L. 97-117 (section 304(d)(4) of the Act) requires that assurances be made that water quality will not be adversely affected by deeming facilities as the equivalent of secondary treatment. The Agency's NPDES permit regulations already require that any permit effluent limitations result in compliance with applicable water quality standards, State effluent requirements, and other provisions of the Act (see 40 CFR 122.44 at 48 FR 14169, and 40 CFR 124.53).

d. *Seasonal Permits.* EPA recognizes that the performance of equivalent treatment processes such as TFs and WSPs may be affected by differences in temperature, and thus, such facilities may exhibit variation in performance depending on geographical, climatic, or seasonal factors. For a given facility, there may be significant differences in performance from one period of the year to another. In implementing § 133.105(f), the Agency encourages permit writers to develop seasonal permits that would reflect such differences in performance where the differences are significant. If a seasonal permit is developed, a

specific time period, during which the different effluent limitations would apply, should be established based on historical records for either mean monthly ambient air temperature or effluent wastewater temperature.

B. Substitution of $CBOD_5$

1. Process for Revising NPDES Permits

Under this final rule, NPDES permitting authorities are allowed to substitute the $CBOD_5$-based effluent concentrations and testing procedures in place of existing BOD_5 requirements in secondary treatment and equivalent NPDES permits. Due to the large number of municipal permits that could be potentially impacted by this rule, the preferred method of implementation is to revise the permit limitations at the time of normal permit reissuance.

Elsewhere in today's Federal Register, the Agency is promulgating changes to the NPDES Permit Regulations (40 CFR 122.62) that allow municipalities to request permit modification prior to reissuance. Therefore, permittees who wish to request modification prior to reissuance may do so, but must submit their requests for modification within 90 days of publicaton (40 CFR 122.6(a)(3)(i)(C)).

2. Water Quality Related Issues

Permit writers must determine whether treatment more stringent than secondary treatment is needed to achieve water quality standards. If a permitting authority determines that State water quality standards for the receiving water would be violated by a discharge of secondary effluent, then States' similar procedures will be used to determine that the receiving water is indeed effluent limited, *e.g.*, NOD is not causing water quality violations. Where concerns exist that the NOD present in secondary effluent may result in adverse effects on water quality and designated uses of receiving waters, the State should consider whether the stream classification should be changed from effluent limited to water quality limited. This rule applies only to those cases where the technology-based standard of secondary treatment was considered and found to be sufficient to protect water quality and ensure compliance with water quality standards.

3. Sampling and Testing Procedures

The secondary treatment regulation requires the use of sampling and testing procedures in accordance with 40 CFR Part 136. As noted above, the Agency expects to promulgate the addition of a $CBOD_5$ test to the list of EPA approved procedures in August of this year. Both the preamble and cited references for the rulemaking for 40 CFR Part 136 will describe the test procedure for $CBOD_5$ and its rationale.

40 CFR Part 136 includes procedures that are specified in the publication *Standard Methods for the Examination of Water and Wastewater.* The fifteenth edition of *Standard Methods* recommends that BOD_5 tests performed on secondary effluents or samples seeded with secondary effluents use a nitrification inhibitor to properly measure the $CBOD_5$ of the effluent. The inhibitor used in the *Standard Methods* test and included in 40 CFR Part 136 is 2-chloro-6(trichloromethyl) pyridine (TCMP).

VI. Discussion of Changes From the Proposed Regulation

As summarized in section III.A., the Agency has made some changes to the regulation as proposed. The following discussion explains the intent and basis of each change.

A. Permit Adjustments

Subsection 133.105(e) as proposed has been redesignated as (f) in the final regulation. The proposal provided that a "registered engineer" would evaluate the design capability of a new treatment process in establishing effluent limitations. The Agency has deleted this term and provided that the "permit authority" shall determine the appropriate effluent limitation based on consideration of the design capability of the treatment process (§ 133.105(f)(2)). This change was made in response to public comments. Many commenters expressed confusion that the term "registered engineer" implied that a private consulting engineering firm was to be evaluating the treatment process in setting permit limitations. The Agency agrees with the comments that the wording, as proposed, could be easily misinterpreted and that the permitting authority is fully capable of evaluating the effluent limitations. We never intended that any entity other than the permitting authority should be responsible for setting permit limits. Therefore, § 133.105(f)(2) has been changed accordingly.

The Agency has also modified the language in both § 133.105(f) (1) and (2) to clarify that the permitting authority may not set an effluent limitation for an existing or new facility less stringent than allowed in § 133.105 (a) through (e). This does not represent a substantive change from the intent of the subsection as proposed but merely clarifies the relationship between subsections (f) and (a) through (e). Subsection 133.105(f) provides that permits for new and existing facilities that provide treatment equivalent to secondary treatment may be written more stringent than the limitations provided in § 133.105 (a) through (e) but in no case less stringent than such limitations.

Finally, the modifications to § 133.105(f) clarify that permitting authorities must require effluent limitations more stringent than the limitations allowed in § 133.105 (a) through (e) if the permitting authorities determine such more stringent limitations are achievable based on the determinations as required by § 133.105(f) (1) and (2). Subsection 133.105(f)(1) is the anti-backsliding provision upon which the Agency received extensive comment. The Agency has not changed the anti-backsliding provision and the modification in the language of § 133.105(f)(1) only clarifies the implementation of the anti-backsliding provision and makes no substantive change. The modification to the language in § 133.105(f)(2) makes this subsection consistent with subsection (f)(1) and clarifies the factors to be considered by the permitting authority in setting effluent limitations for new facilities. No substantive change from the proposal was intended.

B. $CBOD_5$ Limitations for TFs and WSP

The proposed regulation included an amendment adding § 133.102(a)(4) authorizing a permitting authority to allow the use of the $CBOD_5$ parameter rather than BOD_5 for measuring oxygen demand from secondary treatment. As proposed, § 133.102(a)(4) only addressed using $CBOD_5$ in evaluating secondary treatment, establishing limits of 25 mg/l and 85 percent removal for the 30-day average and 40 mg/l for the 7-day average. Public comments raised the issue that the use of the $CBOD_5$ parameter should also be allowed for TFs and WSPs as facilities providing treatment equivalent to secondary treatment. The Agency agreed with those comments and has therefore added the new § 133.105(e)(1) in the final rule allowing the use of the $CBOD_5$ parameters for TFs and WSPs.

Addition of the new § 133.105(e)(1) is consistent with the Agency's decision to give permitting authorities the option of using $CBOD_5$ for measuring oxygen demand from secondary treatment at POTWs. Since the use of the $CBOD_5$ parameter may be more accurate than the BOD_5 standard, its use should also be authorized for POTWs using TFs and WSPs. The Agency has established a 40 mg/l 30-day average and 60 mg/l 7-day average as the maximum $CBOD_5$

allowed in TFs and WSPs (§ 133.105(e)(1)). These limits are 5 mg/l less than the 45 mg/l and 65 mg/l BOD_5 standards for TFs and WSPs, thereby reflecting the same level of reduction required for secondary treatment when using the $CBOD_5$ parameter.

C. Industrial Wastes

The secondary treatment regulation currently provides for the upward adjustment of the 30 mg/l and 45 mg/l limits in subsection 133.102 (a) and (b) under certain conditions related to large flows of industrial wastes into a POTW (§ 133.103(b)). This provision accounts for the situation where POTWs receive industrial wastes for which direct discharge standards are less stringent than the secondary treatment requirements. Some commenters noted that this provision for adjustments is equally applicable to TFs and WSPs providing treatment equivalent to secondary treatment. The Agency agreed and has modified § 133.103(b) to allow adjustment of limitations in § 133.105 (a)(2) and (b)(2) if those are the limitations applicable to the POTW. Additionally, § 133.103(b) has been modified to include § 133.102(a)(4) (i) and (ii) and 133.105(e)(1) (i) and (ii) if the POTW limitations are based on the use of the $CBOD_5$ parameter.

The changes to § 133.103(b) do not substantively change its applicability. The changes merely continue the applicability of the provisions in § 133.103(b) to all qualifying POTWs. Currently the provisions of § 133.103(b) apply to any POTW that receives the specified types of industrial wastes. Since today's amendments to the secondary treatment regulation establish different limitations for "treatment equivalent to secondary" and allow use of the $CBOD_5$ parameter, it was necessary to modify § 133.103(b) to continue its applicability to all POTWs that receive the specified types of industrial wastes. These modifications merely continue the Agency policy currently stipulated in § 133.103(b).

D. Public Comment on ASRs

Subsection 133.105(d) has been changed by adding the words "and after notice and opportunity for public comment." The Agency received comments on the proposed ASR development and approval process requesting an opportunity for the public to comment on a proposed ASR. The rule as proposed required EPA approval of an ASR, however, it did not provide that the State or EPA solicit public comment before approval. The Agency agrees that there should be an opportunity for the public to comment on proposed ASRs. Therefore, the Agency has changed § 133.105(d) to require that either the State or Regional Administrator, whichever is developing the ASR, provide notice and opportunity to the public to comment on the proposed ASR.

E. "Principal" Treatment Process

The proposed definition of "facilities eligible for treatment equivalent to secondary treatment" includes a TF or WSP be used as the "principal" treatment process (§ 133.101(g)(2)). The Agency is including this definition unchanged in the final amendments. One commenter, however, noted that an analogous provision in the current regulations relating to WSPs includes the requirements that the WSP be the "sole" treatment process (§ 133.103(c)) and that use of two different terms raised some confusion. The Agency does not intend that a different requirement be imposed under §§ 133.101(g)(2) and 133.103(c), and has therefore changed the word "sole" in § 133.103(c) to read "principal." This change makes the two provisions compatible and is consistent with the Agency's current interpretation of § 133.103(c). The Agency never intended that a WSP be the exclusive treatment process before § 133.103(c) could apply. The Agency has always encouraged the use of "supplemental" or "add-on" components in conjunction with WSPs (i.e., aeration or simple filters), when the WSP was the principal treatment process. This change in § 133.103(c) is consistent with Agency policy.

F. Reference to Best Conventional Pollutant Control Technology (BCT)

The Agency recognized in response to two public comments that § 133.103(b) should be amended to add a reference to BCT limitations for BOD_5 and SS. Permits written under the current § 133.103(b) allow an upward adjustment of a POTW BOD_5 and SS permit limitations if the POTW receives industrial wastes from a category that would allow less stringent BOD_5 and SS limitations if the category was a direct discharger. The regulation references sections 301(b)(1)(A)(i) and 306 which are the statutory bases for BPT effluent limitations and new source performance standards. These permits may remain in effect for up to five years. Since permits written after July 1, 1984 will base BOD_5 and SS limitations for direct dischargers on BCT rather than BPT, the Agency has amended § 133.103(b) to include the reference to section 301(b)(2)(E), the statutory basis for BCT. The Agency does not consider this a substantive change but merely an updating of § 133.103(b) to include the reference to all applicable statutory provisions.

G. Effluent Values and Concentrations "Achievable"

A final modification has been made in §§ 133.101(f), 133.101(g), 133.105(d), 133.105(f) (1) and (2) by changing the word "achieved" to "achievable." The word "achievable" more accurately reflects the assessments that are to be made in establishing effluent limitations for treatment equivalent to secondary treatment. For example, § 133.101(f) as proposed refers to determining effluent quality "achieved" but provides that unrepresentative samples should be excluded. Therefore, the Agency believes that the correct term for the number to be derived is the effluent quality "achievable", rather than achieved. The changes in the other subsections result in similar clarification of the intended limitation to be derived. This change is consistent with the Agency's original intent and does not represent a substantive change in the Agency's view.

VII. Regulatory Reviews

A. Executive Order 12291

Under Executive Order (E.O.) 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the regulation impact analysis requirements of the Order or whether it may follow other development procedures. The Agency has determined that this regulation is not a major rule within the scope of E.O. 12291. This final rulemaking was submitted to the Office of Management and Budget (OMB) for review as required under E.O. 12291.

B. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must submit a copy of any proposed rule which contains a collection of information requirement to the Director of OMB for review and approval. The Agency determined that a new collection of information requirement is involved by the provisions authorizing ASRs, 40 CFR 133.105(d). Comments were requested on the Agency's proposed information collection requirements. Based on the comments received there will be few, if any, States developing an ASR, which significantly reduces the information collection requirement, originally estimated in the proposed regulation.

The information collection requirements contained in this rule have been approved by the OMB under provisions of the paperwork Reduction

Act and have been assigned OMB control number 2040-0051.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires EPA to assess the impact of its regulatory proposals on "small entities." No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The secondary treatment amendments promulgated today will allow permitting authorities to modify discharge requirements for many small communities that use TF and WSP treatment technologies. In most cases where requirements are modified, the costs of construction of new facilities, and operation and maintenance costs of existing facilities, will be eliminated or reduced. The estimates of the ultimate benefits that will accrue to small communities as a result of these amendments are uncertain because of the flexibility provided and inherent resulting difficulties in estimating cost impacts. Although precise quantification of costs and benefits is not possible, the Agency believes that this rulemaking will have a net beneficial effect result in cost savings of approximately $1.6 billion based on Needs Survey data.

For operational facilities that meet the criteria for treatment equivalent to secondary treatment (§§ 133.101(g) and 133.105), communities may seek adjustment of NPDES permits where current requirements are not being met. The Agency estimates that the final rule will enable over 3,900 facilities to experience significant cost savings through deferral or elimination of costly capital improvements while continuing to meet approved water quality standards.

For new TF and WSP facilities, the adjustments from secondary treatment requirements will be based on the permitting authority assessment of the design capabilities of the proposed facility. This provision should result in the expanded use of these less expensive wastewater treatment technologies, and the initial capital investment will be less than under previous requirements. This should also results in lower EPA grant awards in many cases, releasing funds for additional projects that may not have been funded except for this cost savings measure. Additional operation and maintenance savings may also result as well.

Today's rulemaking also allows substitution of $CBOD_5$ standards for the existing BOD_5 standards. This provision is applicable to all POTWs and we expect that some small communities may request this change. The use of the $CBOD_5$ parameter and testing procedures, moreover, may result in substantial capital or operations and maintenance cost savings at some locations. By using the $CBOD_5$ parameter and testing procedures some communities may be able to demonstrate that planned treatment facility upgradings are in fact unnecessary. Furthermore, the Agency expects that some communities will also realize benefits from the use of $CBOD_5$ through more accurate measurements of effluent quality and elimination of the incentive to operate plants in a counter-productive manner to meet BOD_5 limits, e.g., prevention of nitrification in facilities.

The Agency believes that today's regulation will not result in any significant economic impact on small communities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b), that this amendment will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 133

Publicly owned treatment works, Waste treatment and disposal, Water pollution control.

Dated: September 12, 1984.

William D. Ruckelshaus,

Administrator.

Appendix A—Abbreviations, Acronyms and Terms Used in This Notice

Act—The Clean Water Act.

Agency—The United States Environmental Protection Agency.

BCT—Best Conventional Pollution Control Technology.

BPT—Best Practicable Control Technology.

BOD—A pollutant parameter for the biochemical oxygen demand of wastewater, which typically includes both a carbonaceous and a nitrogenous portion.

BOD_5—The BOD exerted in a 5-day period.

BOD_u—The ultimate or long-term BOD of wastewater, which will be exerted if sufficient reaction time is allowed.

CBOD—The carbonaceous portion of the BOD of wastewater.

$CBOD_5$—The CBOD exerted in a 5-day period.

$CBOD_u$—The ultimate or long-term CBOD of wastewater, which will be exerted if sufficient reaction time is allowed. Typically, $CBOD_u$ is equal to 1.5 times the $CBOD_5$.

CWA—The Clean Water Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 [33 U.S.C. 1251 *et seq.*], as amended by the Clean Water Act of 1977 [Pub. L. 95-217] and the Municipal Wastewater Treatment Construction Grant Amendments of 1981 [Pub. L. 97-117].

EPA—The United States Environmental Protection Agency.

mgd—Million gallons per day.

mg/l—Milligrams per liter.

MCD-53—"Innovative and Alternative Technology Assessment Manual." [EPA 430/9-78-009, MCD-53, 1980].

NOD—The nitrogenous portion of the BOD of wastewater.

NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.

OMB—Office of Management and Budget.

POTW—Publicly owned treatment works.

SS—Suspended solids.

Standard Methods—Standard Methods for the Examination of Water and Wastewater, 15th ed. (American Public Health Association, Washington, D.C. 1980).

TF—Trickling filter.

Technical Support Document—"Technical Support Document for Regulations under section 304(d)(4)."

WSP—Waste stabilization pond.

1981 Amendments—The Municipal Wastewater Treatment Construction Grant Amendments of 1981 [Pub. L. 97-117].

Appendix B—Suspended Solids Limitations for Wastewater Treatment Ponds [1] [Source: 43 FR 55279, November 27, 1978]

Location	Suspended Solids Limit [2] (mg/l)
Alabama	90.
Alaska	70.
Arizona	90.
Arkansas	90.
California	95.
Colorado:	
Aerated ponds	75.
All others	105.
Connecticut	N.C.
Delaware	N.C.
District of Columbia	N.C.
Florida	N.C.
Georgia	90.
Guam	N.C.
Hawaii	N.C.
Idaho	N.C.
Illinois	37.
Indiana	70.
Iowa:	
Controlled discharge, 3 cell	Case-by-case but not greater than 80.
All others	80.
Kansas	80.
Kentucky	N.C.
Louisiana	90.
Maine	45.
Maryland	90.
Massachusetts	N.C.
Michigan: Controlled seasonal discharge:	
Summer	70.
Winter	40.
Minnesota	N.C.
Mississippi	90.
Missouri	80.
Montana	100.
Nebraska	80.
North Carolina	90.
North Dakota:	
North and East of Missouri River	60.
South and West of Missouri River.	100.
Nevada	90.
New Hampshire	45.
New Jersey	N.C.
New Mexico	90.
New York	70.
Ohio	65.
Oklahoma	90.

[1] The values set for Iowa and Virginia incorporate a specific case-by-case provision.

Location	Suspended Solids Limit [2] (mg/l)
Oregon:	
East of Cascade Mts	85.
West of Cascade Mts	50.
Pennsylvania	N.C.
Puerto Rico	N.C.
Rhode Island	45.
South Carolina	90.
South Dakota	120.
Tennessee	100.
Texas	90.
Utah	N.C.
Vermont	55.
Virginia:	
East of Blue Ridge Mts	60.
West of Blue Ridge Mts	78.
East slope counties: Loudoun, Fauquier, Rappahannock, Madison, Green, Albemarle, Nelson, Amherst, Bedford, Franklin, Patrick.	Case-by-case application of 60/78 limits.
Virgin Islands	N.C.
Washington	75.
West Virginia	80.
Wisconsin	60.
Wyoming	100.
Trust Territories and N. Marianas	N.C.

Notes: N.C.—no change from existing criteria.
[2] Thirty consecutive day average or average over the period of discharge when the duration of the discharge is less than 30 days.

40 CFR Part 133 is revised to read as follows:

PART 133—SECONDARY TREATMENT REGULATION

Sec.
133.100 Purpose.
133.101 Definitions.
133.102 Secondary treatment.
133.103 Special considerations.
133.104 Sampling and test procedures.
133.105 Treatment equivalent to secondary treatment.

Authority: Secs. 301(b)(1)(B), 304(d)(1), 304(d)(4), 308, and 501 of the Clean Water Act [Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977, and the Municipal Wastewater Treatment Construction Grant Amendments of 1981]; 33 U.S.C. 1311(b)(1)(B); 1314(d)(1) and (4); 1318; and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217; 95 Stat. 1623, Pub. L. 97–117.

§ 133.100 Purpose.

This part provides information on the level of effluent quality attainable through the application of secondary or equivalent treatment.

§ 133.101 Definitions.

Terms used in this part are defined as follows:

(a) *"7-day average."* The arithmetic mean of pollutant parameter values for samples collected in a period of 7 consecutive days.

(b) *"30-day average."* The arithmetic mean of pollutant parameter values of samples collected in a period of 30 consecutive days.

(c) *"Act."* The Clean Water Act (33 U.S.C. 1251 *et seq.*, as amended).

(d) *"BOD_5."*) The five day measure of the pollutant parameter biochemical oxygen demand (BDO).

(e) *"$CBOD_5$."* The five day measure of the pollutant parameter carbonaceous biochemical oxygen demand ($CBOD_5$).

(f) *"Effluent concentrations consistently achievable through proper operation and maintenance."* (1) For a given pollutant parameter, the 95th percentile value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions, and (2) a 7-day average value equal to 1.5 times the value derived under paragraph (f)(1) of this section.

(g) *"Facilities eligible for treatment equivalent to secondary treatment."* Treatment works shall be eligible for consideration for effluent limitations described for treatment equivalent to secondary treatment (§ 133.105), if:

(1) The BOD_5 and SS effluent concentrations consistently achievable through proper operation and maintenance (§ 133.101(f)) of the treatment works exceed the minimum level of the effluent quality set forth in § §133.102(a) and 133.102(b),

(2) A trickling filter or waste stabilization pond is used as the principal process, and

(3) The treatment works provide significant biological treatment of municipal wastewater.

(h) *"mg/l."* Milligrams per liter.

(i) *"NPDES."* National Pollutant Discharge Elimination System.

(j) *"Percent removal."* A percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period.

(k) *"Significant biological treatment."* The use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of a least 65 percent removal of BOD_5.

(l) *"SS."* The pollutant parameter total suspended solids.

§ 133.102 Secondary treatment.

The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of the parameters—BOD_5, SS and pH. All requirements for each parameter shall be achieved except as provided for in §§ 133.103 and 133.105.

(a) *BOD_5.*

(1) The 30-day average shall not exceed 30 mg/l.

(2) The 7-day average shall not exceed 45 mg/l.

(3) The 30-day average percent removal shall not be less than 85 percent.

(4) At the option to the NPDES permitting authority, in lieu of the parameter BOD_5 and the levels of the effluent quality specified in paragraphs (a)(1), (a)(2), and (a)(3), the parameter $CBOD_5$ may be substituted with the following levels of the $CBOD_5$ effluent quality provided:

(i) The 30-day average shall not exceed 25 mg/l.

(ii) The 7-day average shall not exceed 40 mg/l.

(iii) The 30-day average percent removal shall not be less than 85 percent.

(b) *SS.*

(1) The 30-day average shall not exceed 30 mg/l.

(2) The 7-day average shall not exceed 45 mg/l.

(3) The 30-day average percent removal shall not be less than 85 percent.

(c) *pH.* The effluent values for pH shall be maintained within the limits of 6.0 to 9.0 unless the publicly owned treatment works demonstrates that: (1) inorganic chemicals are not added to the waste stream as part of the treatment process; and (2) contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

§ 133.103 Special considerations.

(a) *Combined sewers.* Treatment works subject to this part may not be capable of meeting the percentage removal requirements established under §§ 133.102(a)(3) and 133.102(b)(3), or §§ 133.105(a)(3) and 133.105(b)(3) during wet weather where the treatment works receive flows from combined sewers (*i.e.*, sewers which are designed to transport both storm water and sanitary sewage). For such treatment works, the decision must be made on a case-by-case basis as to whether any attainable percentage removal level can be defined, and if so, what the level should be.

(b) *Industrial wastes.* For certain industrial categories, the discharge to navigable waters of BOD_5 and SS permitted under sections 301(b)(1)(A)(i), 301(b)(2)(E) or 306 of the Act may be less stringent than the values given in §§ 133.102(a)(1), 133.102(a)(4)(i), 133.102(b)(1), 133.105(a)(1), 133.105(b)(1) and 133.105(e)(1)(i). In cases when wastes would be introduced from such

an idustrial category into a publicly owned treatment works, the values for BOD_5 and SS in §§ 133.102(a)(1), 133.102(a)(4)(i), 133.102(b)(1), 133.105(a)(1), 133.105(b)(1), and 133.105(e)(1)(i) may be adjusted upwards provided that: (1) the permitted discharge of such pollutants, attributable to the industrial category, would not be greater than that which would be permitted under sections 301(b)(1)(A)(i), 301(b)(2)(E) or 306 of the Act if such industrial category were to discharge directly into the navigable waters, and (2) the flow or loading of such pollutants introduced by the industrial category exceeds 10 percent of the design flow or loading of the publicly owned treatment works. When such an adjustment is made, the values for BOD_5 or SS in §§ 133.102(a)(2), 133.102(a)(4)(ii), § 133.102(b)(2), 133.105(a)(2), 133.105(b)(2), and 133.105(e)(1)(ii) should be adjusted proportionately.

(c) *Waste Stabilization Ponds.* The Regional Administrator, or, if appropriate, State Director subject to EPA approval, is authorized to adjust the minimum levels of effluent quality set forth in § 133.105 (b)(1), (b)(2), and (b)(3) for treatment works subject to this part, to conform to the SS concentrations achievable with waste stabilization ponds, provided that: (1) waste stablization ponds are the principal process used for secondary treatment; and (2) operation and maintenance data indicate that the SS values specified in § 133.105 (b)(1), (b)(2), and (b)(3) cannot be achieved. The term "SS concentrations achievable with waste stabilization ponds" means a SS value, determined by the Regional Administrator, or, if appropriate, State Director subject to EPA approval, which is equal to the effluent concentration achieved 90 percent of the time within a State or appropriate contiguous geographical area by waste stabilization ponds that are achieving the levels of effluent quality for BOD_5 specified in § 133.105(a)(1). [cf. 43 FR 55279].

§ 133.104 Sampling and test procedures.

(a) Sampling and test procedures for pollutants listed in this part shall be in accordance with guidelines promulgated by the Administrator in 40 CFR Part 136.

(b) Chemical oxygen demand (COD) or total organic carbon (TOC) may be substituted for BOD_5 when a long-term BOD:COD or BOD:TOC correlation has been demonstrated.

§ 133.105 Treatment equivalent to secondary treatment.

This section describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment (§ 133.101(g)) in terms of the parameters—BOD_5, SS and pH. All requirements for the specified parameters in paragraphs (a), (b), and (c) of this section shall be achieved except as provided for in § 133.103, or paragraphs (d), (e) or (f) of this section.

(a) *BOD_5.*

(1) The 30-day average shall not exceed 45 mg/l.

(2) The 7-day average shall not exceed 65 mg/l.

(3) The 30-day average percent removal shall not be less than 65 percent.

(b) *SS.* Except where SS values have been adjusted in accordance with § 133.103(c):

(1) The 30-day average shall not exceed 45 mg/l.

(2) The 7-day average shall not exceed 65 mg/l.

(3) The 30-day average percent removal shall not be less than 65 percent.

(c) *pH.* The requirements of § 133.102(c) shall be met.

(d) *Alternative State Requirements.* Except as limited by paragraph (f) of this section, and after notice and opportunity for public comment, the Regional Administrator, or, if appropriate, State Director subject to EPA approval, is authorized to adjust the minimum levels of effluent quality set forth in paragraphs (a)(1), (a)(2), (b)(1) and (b)(2) of this section for trickling filter facilities and in paragraphs (a)(1) and (a)(2) of this section for waste stabilization pond facilities, to conform to the BOD_5 and SS effluent concentrations consistently achievable through proper operation and maintenance (§ 133.101(f)) by the median (50th percentile) facility in a representative sample of facilities within a State or appropriate contiguous geographical area that meet the definition of facilities eligible for treatment equivalent to secondary treatment (§ 133.101(g)).

(The information collection requirements contained in this rule have been approved by OMB and assigned control number 2040-0051.)

(e) *$CBOD_5$* Limitations:

(1) Where data are available to establish $CBOD_5$ limitations for a treatment works subject to this section, the NPDES permitting authority may substitute the parameter $CBOD_5$ for the parameter BOD_5 In §§ 133.105(a)(1), 133.105(a)(2) and 133.105(a)(3), on a case-by-case basis provided that the levels of $CBOD_5$ effluent quality are not less stringent than the following:

(i) The 30-day average shall not exceed 40 mg/l.

(ii) The 7-days average shall not exceed 60 mg/l.

(iii) The 30-day average percent removal shall not be less than 65 percent.

(2) Where data are available, the parameter $CBOD_5$ may be used for effluent quality limitations established under subsection (d) of this section. Where concurrent BOD effluent data are available, they must be submitted with the CBOD data as a part of the approval process outlined in subsection (d).

(f) *Permit Adjustments.* Any permit adjustment made pursuant to this Part may not be any less stringent than the limitations required pursuant to § 133.105(a)-(e). Furthermore, permitting authorities may require more stringent limitations when adjusting permits if: (1) for existing facilities the permitting authority determines that the 30-day average and 7-day average BOD_5 and SS effluent values that could be achievable through proper operation and maintenance of the treatment works, based on an analysis of the past performance of the treatment works, would enable the treatment works to achieve more stringent limitations, or

(2) For new facilities, the permitting authority determines that the 30-day average and 7-day average BOD_5 and SS effluent values that could be achievable through proper operation and maintenance of the treatment works, considering the design capability of the treatment process and geographical and climatic conditions, would enable the treatment works to achieve more stringent limitations.

[FR Doc. 84-24845 Filed 9-19-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 122

[WH-FRL-2600-1]

National Pollutant Discharge Elimination System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revising a permit program requirement for the National Pollutant Discharge Elimination System (NPDES). The final rule implements Section 23 of Municipal Wastewater Treatment Construction Grants Amendments of 1981 to the Clean Water Act and the revisions to the Secondary Treatment Regulation (40 CFR Part 133) published elsewhere in today's Federal Register. EPA proposed these changes to

the NPDES regulations on November 16, 1983 (49 FR 52258). The rule will allow NPDES permits to be modified or reissued to include less stringent limits based upon the revised secondary treatment requirements.

DATES: The effective date of this regulation is November 5, 1984.

In accordance with 40 CFR 100.01 (45 FR 26098, April 17, 1980), these regulations shall be considered final agency action for purposes of judicial review at 1:00 p.m. eastern time on October 5, 1984. In order to assist EPA to correct any typographical errors, incorrect cross references, and similar technical errors, comments of a technical and nonsubstantive nature on the final regulation may be submitted on or before November 20, 1984. The effective date of this regulation will not be delayed by consideration of such comments.

ADDRESS: Comments of a technical and nonsubstantive nature should be addressed to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: George E. Young, Permits Division [EN-336], Office of Water Enforcement and Permits, Environment Protection Agency 401 M Street, SW., Washington, D.C. 20460. Telephone: (202) 426-4793.

SUPPLEMENTARY INFORMATION: Section 301(b)(1) of the Clean Water Act (CWA) requires all publicly owned treatment works (POTWs) to achieve effluent limitations based on secondary treatment or more stringent water quality standards. These effluent limitations are imposed in permits issued to dischargers under the National Pollutant Discharge Elimination System (NPDES). EPA and States approved to administer the NPDES Program have issued permits to existing POTWs with conditions based upon the secondary treatment definition in the existing Secondary Treatment Regulation (40 CFR Part 133). On November 16, 1983, EPA proposed revisions to the secondary treatment requirements in Part 133 based upon section 23 of the "Municipal Wastewater Treatment Construction Grants Amendments of 1981" to the CWA (48 FR 52258). These CWA amendments deemed such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters as the equivalent of secondary treatment and directed EPA to provide guidance on design criteria for such facilities, taking into account pollutant removal efficiencies. EPA proposed Part 133 revisions to carry out this directive. Elsewhere in today's Federal Register, EPA is publishing final rules revising Part 133.

The current NPDES regulations do not authorize permits to be modified or reissued to incorporate changes to the secondary treatment requirements insofar as these may be less stringent then the existing permit effluent limitations. Section 122.44(1) prohibits reissuance of a permit upon expiration with any condition less stringent than those in the expiring permit unless cause for permit modification under § 122.62 exists. The current regulations do not provide any cause for permit modification that would allow less stringent permit limitations to be imposed based upon changes to the secondary treatment regulations. Thus, even if permittees would qualify for less stringent requirements as a result of today's revision to the secondary treatment requirements, the existing NPDES regulations would not allow implementation of the revision through changes to permit conditions.

EPA, therefore, proposed to revise § 122.62(a)(3)(i) to allow a POTW to request permit modification to incorporate new effluent limitations in accordance with the revised Secondary Treatment Regulation. Permittees must request the modification within 90 days of publication in the Federal Register of revised secondary treatment rules. Under § 122.44(1), that change would also allow the Director to reissue a permit upon expiration with limitations less stringent than those in the expiring permit to the extent authorized by the revised secondary treatment standards. This proposal was also intended to make EPA's approaches to promulgated technology-based standards consistent for POTWs and for industrial dischargers. The current EPA policy in the NPDES regulations allows industrial permits to be modified or reissued at the permittee's request when EPA promulgates effluent limitations guidelines to replace previous guidelines on which the permit was based that were withdrawn, modified, or revised (§ 122.62(a)(3)).

EPA received only two comments on the proposal to revise the NPDES regulations. One commenter noted that many minor POTWs affected by the revision would be required to comply with the secondary treatment standards in their existing permits until permit reissuance since it is not likely that their permits would be modified during the term to incorporate revised secondary treatment standards. As the commenter observed, since modifying POTW permits based upon today's change could requrie significant resources, EPA may not be able to modify all permits prior to expirations. However, EPA will attempt to deal with all permit modification requests as expeditiously as possible so that permittees may benefit from any changes to permit limitations.

Another commenter disagreed with the statement in the proposal that the revision would make consistent EPA's treatment of industrial and municipal dischargers. The commenter stated that because industrial permits could only be made less stringent if they were based upon promulgated effluent guidelines, the policy would unfairly treat industry dischargers with permits based upon the permit writer's best professional judgment (BPJ) under section 402(a)(1) of the CWA. EPA proposed changes to the industrial anti-backsliding policy in 40 CFR 122.44(1) on November 18, 1982 (47 FR 52072). The Agency will fully address its anti-backsliding policy as it applies to BPJ permits for industrial dischargers in that rulemaking. However, as discussed above, today's rulemaking is consistent with the Agency's approach to modification of permits based upon promulgated technology-based standards.

For the reasons discussed above, EPA has decided to promulgate the final rule as proposed. This revision is essential if today's changes to the Part 133 secondary treatment definition are to have any meaning. The Agency's rationale for promulgating the final revisions to Part 133 is discussed elsewhere in today's Federal Register.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This amendment will allow permittees to obtain less stringent limitations in their NPDES permits and will thereby reduce burdens. The regulation does not satisfy any of the criteria specified in section 1(b) of the Executive Order and, as such, does not constitute a major rulemaking. This regulation was submitted to the Office of Management and Budget (OMB) for review.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*, EPA submitted a copy of the proposed rule and supporting documents on collection of information requirements to the Director of OMB for review and approval. No comments were received. EPA is submitting a copy of the final rule and supporting documents on the information collection requirement to the Director of OMB.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Today's amendment would allow permittees to obtain less stringent effluent limitations and would therefore reduce costs and burdens for them. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b), that this amendment will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Reporting and recordkeeping requirements, Water pollution control, Confidential business information.

Dated: September 12, 1984.

William D. Ruckelshaus,

Administrator.

These regualtions contained in 40 CFR Part 122 are amended as follows:

PART 122—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Section 122.62 is amended by revising paragraph (a)(3)(i)(A) as follows:

§ 122.62 Modification or revocation and reissuance of permits.

* * * * *

(a) * * *

(3) * * *

(i) For promulgation of amended standards or regulations, when:

(A) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the Secondary Treatment Regulations under Part 133; and

* * * * *

[FR Doc. 84-24343 Filed 9-19-84; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 133

[WH-FRL-2674-1]

Secondary Treatment Regulation; Availability of Comments and Additional Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Availability of comments and additional opportunity to comment.

SUMMARY: On November 16, 1983, the EPA proposed to amend the secondary treatment regulation (48 FR 52258). That notice of proposed rulemaking also solicited public comment on the issue of modifying the percent removal requirement in the current regulation. The regulation defines secondary treatment for publicly owned treatment works (POTWs) as the achievement of 30 mg/l biochemical oxygen demand, 5-day (BOD_5) and suspended solids (SS) or 85 percent removal of those pollutants on a 30 day average, whichever is more stringent. The notice of proposed rulemaking solicited public comments on the problems related to meeting the percent removal requirement and on five options the Agency was considering for amending the percent removal requirement (48 FR 52267–52269). The Agency has now compiled and is considering the public comments. The Agency is publishing today's notice summarizing the initial public comments and providing the public an additional opportunity to comment specifically on the one option the Agency is most seriously considering for amending the percent removal requirement.

DATE: Written comments on this notice must be submitted on or before Novbember 19, 1984.

ADDRESSES: Comments on this notice should be addressed to: Central Docket Section [A-130], Attention: Docket No. G-81-3, Environmental Protection Agency, Washington, D.C. 20460. The public may inspect the complete record for this rulemaking and all comments received in response to this notice at: Central Docket Section, Gallery 1, West Tower Lobby, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., business days.

FOR FURTHER INFORMATION CONTACT: William Kramer, Office of Water Program Operations [WH-595], Environmental Protection Agency, Washington, D.C. 20460, (202) 382-7277.

SUPPLEMENTARY INFORMATION:

A. Background on the Problems Associated With the Percent Removal Requirements

Four EPA documents that provide background on the problems associated with the percent removal requirement are included as part of the Docket: two draft technical reports from 1979 and 1980 entitled "Evaluation of Infiltration/Inflow (I/I) Program" (these documents present an overview of information on the effectiveness of measures to reduce I/I in sewer systems), a recently completed study: "Determination of Excessive/Nonexcessive Inflow Rates;" and the "Technical Support Document for the Amendment to the Percent Removal Requirement," July 1984, (which summarizes the data collected and the analytical approach used to develop the options considered by the Agency).

1. Percentage Removal Requirements

The Administrator of the EPA has defined the requirements of secondary treatment for POTWs as the achievement of 30 mg/l BOD_5 and SS or 85 percent removal of those pollutants on a 30 day average, whichever is more stringent (40 CFR 133.102 (a) and (b)). These limits are based on what were previously believed to be typical POTW influent concentrations of 200 mg/l for BOD_5 and SS. This requirement has caused a number of problems for POTWs which receive less concentrated influent. Less concentrated influent is usually caused by infiltration and inflow (I/I) in the sewer system. For purposes of this notice, less concentrated influent shall mean wastewaters with influent concentrations of less than 200 mg/l for BOD_5 and SS. Additionally, many POTWs with less concentrated influent may be forced, under the current percent removal requirement, to provide treatment more stringent than 30 mg/l BOD and SS.

The 85 percent removal requirement was originally established to achieve two basic objectives: (1) To help encourage municipalities to correct excessive I/I to their sanitary sewer systems, and (2) to help prevent intentional dilution of influent wastewater. However, in POTWs with dilute influent which is not attributable to excessive I/I or intentional dilution, the percent removal requirement will result in forcing "advanced treatment." Advanced treatment generally refers to additional treatment processes which achieve significantly greater pollutant removals than secondary treatment processes alone (e.g., filtration, chemical addition or two-stage biological treatment).

In addition to the existing 85 percent removal requirement in the secondary treatment regulation, the amendments proposed for public comment on November 16, 1983 would allow separate effluent requirements for POTWs based on the carbonaceous BOD_5($CBOD_5$) parameter and for POTWs employing technologies equivalent to secondary treatment (i.e., trickling filters (TFs) and waste stabilization ponds (WSPs)). The proposed 30-day average effluent limitations for $CBOD_5$ and equivalent treatment provisions each include an effluent concentration requirement and a percent removal requirement. The proposed 30-day average limitations are: (1) 25 mg/l and 85 percent removal for POTWs using the $CBOD_5$ parameter (proposed § 133.102(a)(4)) and (2) no less stringent than 45 mg/l and 65 percent removal of BOD_5 and SS for equivalent treatment (proposed §§ 133.105(a) and 133.105(b)).

The wastewater concentration at which the percent removal requirement becomes the controlling factor is lower in the case of the proposed equivalent treatment standards than it is for the existing secondary treatment requirements. However, imposition of the equivalent treatment percent removal requirements can have the same effect of forcing advanced treatment where these more dilute influents do occur. Furthermore, it is likely that some communities could be forced to abandon or greatly modify existing equivalent treatment facilities in order to comply with the percent removal requirements.

2. Correction of Infiltration and Inflow (I/I)

Infiltration is water other than wastewater that enters a sewer system from the ground through such means as defective pipes, pipe joints, connections or manholes. Inflow is water other than wastewater that enters a sewer system from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage.

Under the Clean Water Act (33 U.S.C. 1281(g)(3)) and EPA's construction grants program (40 CFR 35.2005(b)(16) and 35.2120), grants for the construction of treatment works cannot be made unless an applicant has demonstrated that the sewer system is not or will not be subject to "excessive" I/I. For the purposes of the construction grants

program, the Agency has defined excessive I/I as quantities of I/I which can be economically eliminated from a sewer system as determined in a cost-effectiveness analysis that compares the costs of correcting the I/I conditions to the total costs of transportation and treatment of the I/I.

The percent removal requirement acts to hold a POTW to a more stringent level of treatment until such time as the causes of the less concentrated wastewater are corrected. The feasibility of this regulatory approach is based on an assumption that a municipality will be able to implement corrective measures to reduce I/I that are less costly than the alternative of providing additional hydraulic capacity in the sewer system and at the treatment plant.

EPA initially believed that a substantial portion of the I/I problem (from 70 to 100 percent) could be corrected through cost-effective sewer system rehabilitation. However, more recent information ("Evaluation of Infiltration/Inflow Program," draft technical reports, 1979, 1980) indicates that available infiltration correction techniques are far less effective than initially predicted, and that the actual portion of infiltration amenable to correction may be in a range from zero to 40 percent. As a result, even large expenditures for correction of sewer leakage may result in relatively small ultimate reduction of infiltration, while influent BOD_5 and SS concentrations remain below 200 mg/l.

3. Expected Influent Concentrations under Allowable I/I Conditions

Although influent wastewater for POTWs is often characterized as typically having concentrations of 200 mg/l for BOD_5 and SS, less concentrated influent wastewaters are likely even when facilities receive flows from properly maintained sewer systems. The Agency has determined that a properly maintained sewer system may have a base flow of up to 120 gallons per capita per day (gpcd). While some infiltration would be occurring, the infiltration would be considered nonexcessive and no further correction work would be required if domestic wastewater plus nonexcessive infiltration is less than 120 gpcd. (40 CFR 35.2005(b) (28) and 35.2120)

For inflow, no further correction work would be required (i.e., the inflow is not excessive) if the total flow to the treatment plant (i.e., inflow plus wastewater plus infiltration) is less than 275 gpcd and this flow does not result in chronic operational problems related to hydraulic overloading of the treatment works during storm events. These operational problems may include surcharging, backups, bypasses, and overflows. (The figure 275 gpcd is based on a recently completed EPA study: "Determination of Excessive/Nonexcessive Inflow Rates," May 1984 and is expected to be amended into the construction grants regulation.)

The Agency has determined that in systems without excessive I/I, an influent strength of less than 200 mg/l for BOD_5 and SS could be expected. Where a sewer system is subject to higher levels of infiltration that cannot be economically or effectively eliminated (40 CFR 35.2005(b)(16)), or nonexcessive inflow during storm events, the influent strength could be well below 200 mg/l for BOD_5 and SS. Thus, the existing and proposed percent removal requirements, based on assumed 200 mg/l BOD_5 and SS concentrations, could require more stringent limitations for BOD_5, $CBOD_5$ and SS than the corresponding concentration based limitations, even though cost-effective I/I correction had been implemented.

4. Typical Influent Concentrations

As discussed above, influent strength to POTWs without large industrial contributions will generally have concentrations less than 200 mg/l for BOD_5 and SS. In fact, the data compiled by the Agency for the "Technical Support Document" shows that more than 75 percent of the facilities (without large industrial contributions) studied had influent strengths of less than 200 mg/l for BOD_5 and SS. Approximately 40 percent of the facilities had influent strengths less than 150 mg/l for BOD_5 and SS. The study also identified a subgroup of facilities with influent concentrations equal to or less than 200 mg/l which produced monthly effluent concentrations equal to or less than 30 mg/l BOD_5 and SS. For six of the eight process categories, the 85 percent removal requirements for BOD_5 or SS were not met at least 20 percent of the time when 30 mg/l was being achieved for these parameters. Furthermore, for three of the process categories, the 85 percent removal requirements for BOD_5 or SS were not met approximately 50 percent of the time when 30 mg/l was being achieved. The complete table on percent removal performance is presented below:

PERCENT OF MONTHS AVERAGE PERCENT REMOVAL IS LESS THAN 85 PERCENT FOR PLANTS WITH INFLUENT LESS THAN OR EQUAL TO 200 MG/L AND MONTHLY EFFLUENT IS LESS THAN OR EQUAL TO 30 MG/L

Process category	percent		Months considered—total months	
	BOD	TSS	BOD	TSS
Trickling Filter-Rock	54.0	52.1	769/1423	836/1423
Trickling Filter-Plastic	60.4	40.8	212/366	228/366
Act. Sludge-Conventional	20.1	18.3	1040/1431	923/1431
Act. Sludge-Con. Stab	18.6	20.4	729/1239	784/1239
Act. Sludge-Ext. Aeration	7.8	19.4	432/617	397/617
R.B.C.	35.9	35.9	409/543	435/543
Oxidation Ditch	6.6	15.0	331/557	341/577
Stabilization Ponds	42.6	14.3	37/373	7/373

Thus, for many of the facilities in this representative sample with secondary treatment limitations would be expected to provide a level of treatment more stringent than 30 mg/L for BOD_5 and SS under the 85 percent removal requirement. Likewise a significant number of facilities with $CBOD_5$ or equivalent treatment limitation would be expected to provide more stringent levels of treatment than would otherwise be required by the concentration-based limitations.

B. The Agency's Previous Actions

As part of the November 16, 1983 Notice of Proposed Rulemaking (48 FR 52258), the Agency requested comments on several questions to determine the nature of the problem caused by the existing percent removal requirement in 40 CFR Part 133 and what changes should be made to the requirement. A summary of comments on these questions and the Agency's responses is included in section C of this notice.

The November 16, 1983 Notice of Proposed Rulemaking also requested comments on five options for modifing the percentage removal requirement. The Agency stated that one, or some combination, of these options might be selected for a final regulation if the Agency determined that changes to the percent removal requirement were necessary. A summary of comments on these options and the Agency's preliminary response are also included in section C of this notice. Section D discusses the option the Agency is most seriously considering to amend the percent removal requirement.

C. Summary of Comments on the Modification of the Percentage Removal Requirements

As indicated above, the Agency requested public comment on five questions to better understand the

severity of the problems caused by the percent removal requirement and on five options for remedying the problems. This section provides a summary of the comments received on those questions and options and, where appropriate, the Agency's preliminary response. All comments are available for inspection at EPA's Central Docket. Any comments already received will be considered as part of the final rulemaking and do not need to be resubmitted. However, additional comments are encouraged.

1. Comments on Specific Questions Posed by the Agency

The following is an overview of the comments that the Agency received on various questions to determine whether the severity of the less concentrated influent wastewater problem warrants changes in the percent removal requirements. The Agency's first question was whether measures to correct I/I are as efficient as previously assumed. The vast majority of those responding stated that correction of I/I was not as effective as previously assumed. Many stated that I/I correction was very difficult to achieve, especially for flows associated with short-term storm events. A few commenters stated that correction of infiltration is not as effective as previously assumed but inflow could be corrected in most cases. These commenters agreed with the Agency assessment that the actual portion of infiltration amenable to correction may be in the range from zero to 40 percent.

Second, the Agency questioned whether sewer systems with nonexcessive quantities of I/I have influent BOD_5 concentrations of 200 mg/l or will the concentrations be significantly less. Virtually all of the commenters indicated that the influent concentrations for many systems with nonexcessive I/I would be less than 200 mg/l. One of these commenters, who did an extensive study of his system and supplied the data to EPA, indicated that his community's influent concentrations were significantly less than 200 mg/l BOD_5 and SS even though the wastewater was from residential areas served by new sewers with minimum infiltration.

Another commenter summarized data collected from 17 POTWs which indicated that more than 75 percent of the facilities studied had influent BOD_5 or SS concentrations less than 200 mg/l and that the flow-weighted averages for all 17 facilities were 150 mg/l for BOD_5 and 135 mg/l for SS. One State agency indicated that the overwhelming majority of facilities in their State have influent wastewaters with less than 200 mg/l BOD_5 and SS, that some are less than 100 mg/l and that the typical influent wastewater concentration in the State is approximately 130 to 140 mg/l BOD_5 and SS. Several POTW operators also provided data from their facilities which indicated that influent concentrations were below 200 mg/l even though I/I was nonexcessive.

One commenter responded that there will be times when the influent BOD_5 and SS concentrations will be less than 200 mg/l and other times when it will be more than 200 mg/l. Another commenter stated that the variations of the influent BOD_5 and SS concentrations below and above 200 mg/l will depend on where the sewers are in relation to the groundwater table (i.e., sewer systems below the groundwater table experience a significant reduction of influent BOD_5 and SS concentrations due to infiltration.

The Agency next asked whether the typical influent of a municipal treatment plant was less than 200 mg/l BOD_5 and SS. The majority of the responses indicated that this was true and several supplied supporting data. A few commenters stated that the influent concentration would vary with precipitation and the specific plant involved. A few municipal authorities responded that the influent BOD_5 and SS to their treatment plants are equal to or greater than 200 mg/l.

The fourth question was whether the retention of the percent removal requirement would cause overly stringent treatment requirements for some facilities which cannot economically or effectively reduce I/I or other extraneous flow. All of the commenters stated that overly stringent treatment will result for some facilities if the percent removal requirement is not changed. A number of these commenters gave examples of the effluent limitations which would apply to their facilities based on achieving 85 percent removal (e.g., in one case, 21 mg/l BOD_5 and 24 mg/l SS). Many of the commenters went so far as to say that advanced treatment processes would be needed if some relief was not provided. This includes one commenter who indicated that two facilities which were part of a study he conducted are presently using tertiary filters to achieve 85 percent removal.

The Agency finally asked if other regulatory mechanisms would be more effective than the percent removal requirement to prevent deliberate dilution. Generally, the commenters recommended that controls other than a percent removal requirement are preferable and could be applied through the NPDES permit framework. Most commenters suggested the Agency promulgate a regulation that provides a direct prohibition against deliberate dilution. Several suggested that a mass or flow limit be employed to remedy the problem.

The public's response confirmed the Agency's position that some change is needed to the percent removal requirements. I/I cannot be corrected as effectively as previously assumed. The vast majority of POTWs have influent BOD_5 and SS concentrations below 200 mg/l, such less concentrated wastewaters occurring even when sewer systems do not have excessive I/I. The comments also confirmed the Agency's position that the retention of the current percent removal requirement would cause overly stringent levels of treatment and result in the use of advanced treatment processes in some cases.

2. Responses to Various Options Proposed by the Agency

The five options offered by the Agency for modifying the percent removal requirement for secondary treatment in the November 16, 1983 Notice of Proposed Rulemaking were:

(1) Eliminate the mandatory requirement, but provide substitute language allowing an NPDES permitting authority to establish percent removal requirements for BOD_5 and SS;

(2) Modify the requirement so that it applies on an annual average basis instead of applying on a 30-day average basis;

(3) Modify the requirement to provide for a percent removal of BOD_5 and SS on a 30-day average that is less than 85 percent;

(4) Retain the 85 percent removal requirement, but allow the substitution of either a flow limit or a mass loading limit for BOD_5 and SS;

(5) Determine percentage removal requirements on a case-by-case basis using the design removal efficiency for BOD_5 and SS.

The Agency expressed a preference for either Option 1 or 4. The Agency supported Option 1 because it provides the permitting authority the greatest flexibility in adjusting the percent removal requirement for facilities that are meeting 30 mg/l BOD_5 and SS but that cannot meet the percent removal requirement. The Agency supported Option 4 because a mass limit or flow limit would help to ensure against intentional dilution. Under both Options 1 and 4, the percent removal requirement would remain in effect for those facilities that do not need relief.

The overwhelming consensus expressed by the commenters was to provide some relief from the percent removal requirement, whether by eliminating it (Option 1) or by adjusting it to allow for some flow limit or mass loading limit substitution (Option 4). The consensus was that the original objective of the percent removal requirement to encourage correction of excessive I/I can be achieved more effectively through other means which would work in conjunction with one of the preferred options.

Many who favored Option 1 believed that the current percent removal requirement is arbitrary and does not adequately reflect the influent wastewater concentrations experienced by many POTWs. Those commenters favored allowing the permit authority to set a percent removal on a case-by-case basis.

Those favoring Option 4 felt that case-by-case mass limits would more accurately represent the capability of specific treatment systems to remove pollutants and is thus consistent with a true technology-based standard. The Agency has used the principle of Option 4 in preparing the preferred option discussed in section D of this notice.

In addition to the comments received on option preference, two commenters expressed concern that the options listed for modifying the percent removal requirement did not provide sufficient detail for commenters to respond adequately. These commenters stated that one option should be presented to allow for meaningful public participation prior to any final rulemaking on percent removal. They also stated that a more careful evaluation of the percentage removal issue is needed prior to any rulemaking.

These commenters further stated that all of the options for modifying the percent removal requirement (with the possible exception of Option 4) would cause a great increase in the permissible discharge of BOD_5 and SS. Their position was that the burden should be on the discharger, not the permitting authority, to show that the increase in BOD_5 and SS resulting from adjustment of percent removal requirements would not cause water quality problems.

The Agency intended the November 16, 1983 Notice of Proposed Rulemaking to serve as a forum for comments on various options and questions on the percent removal requirement to allow for further determination of the extent of the problem and its resolution. This notice provides an additional opportunity for comment on the Agency's preferred option which was derived from the comments received on the proposed rule and subsequent study of the percent removal problem. The Agency has conducted an extensive evaluation to determine if there is a problem with the percent removal requirement for facilities with less concentrated influent. The Agency's data supports the conclusion that there is a problem and the public comments submitted in response to the November 16, 1983 Notice of Proposed Rulemaking also supported the Agency's findings. The commenters' concerns that the burden of proof be on the permittee and that water quality problems not result from any permit adjustment are addressed by the fact that water quality standards always must be met (40 CFR 122.44(d)).

D. The Preferred Option

Based on the comments received on the previous options and further Agency study of the issue, the Agency has selected an option to revise the percent removal requirements in 40 CFR Part 133 and is asking for additional public comment on that selected option. The selected option is based on Option 4 presented in the November 16, 1983 Notice of Proposed Rulemaking. The option would amend the "Special Considerations" section of the Regulation (§ 133.103) by adding a new paragraph (d) as follows:

(d) *Less Concentrated Influent Wastewater.* The Regional Administrator or, if appropriate, State Director is authorized to substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in §§ 133.102(a)(3), 133.102(a)(4)(iii), 133.102(b)(3), 133.105(a)(3), 133.105(b)(3), and 133.105(e)(1)(iii), provided that the permittee satisfactorily demonstrates that: (1) the treatment works is consistently meeting its permit effluent concentration limits but its percent removal requirements cannot be met due to less concentrated influent wasterwater, (2) to meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations than would otherwise be required by the concentration based-standards, and (3) the less concentrated influent wastewater is not the result of excessive I/I. The determination of whether the less concentrated wastewater is the result of excessive I/I will use the definition of excessive I/I in 40 CFR 35.2005(b)(16) plus the additional criterion that inflow is nonexcessive if the total flow to the POTW (i.e., wastewater plus inflow plus infiltration) is less than 275 gallons per capita per day.

The term "significantly more stringent limitations" means: (1) BOD_5 and SS limitations necessary to meet the percent removal requirement would have to be at least 5 mg/l more stringent than the otherwise applicable concentration-based limitations (e.g., less than 25 mg/l in the case of the secondary treatment limits for BOD_5 and SS), or (2) the percent removal limitations in §§ 133.102 and 133.105, if such limits would, by themselves, force significant construction or other significant capital expenditure. Costs for operation, maintenance or replacement (as defined in 40 CFR 35.2005(b)(30) & (36)) necessary to meet the applicable percent removal requirements would not be grounds for consideration of an adjustment. Although these provisions would allow the percent removal requirement for equivalent technologies to be adjusted below 65 percent in certain extreme cases where very dilute influents occur during wet seasons, the 65 percent removal criterion would still be used in determining whether a facility is providing "significant biological treatment" (proposed § 133.101(k)).

If an existing treatment works would not have to "achieve significantly more stringent limitations" (as defined above) in order to meet its percent removal requirements, the treatment works would have to meet the applicable percent removal requirement (i.e., 85 percent or 65 percent respectively). Agency experience has shown that well designed, operated and maintained secondary and equivalent facilities which are otherwise meeting their BOD_5 and SS limits generally will be able to achieve somewhat more stringent limitations without using advanced treatment processes. For example, activated sludge processes are generally capable of achieving at least 25 mg/l BOD_5 and SS, particularly when the influent concentrations for these parameters are less than 200 mg/l (and provided that the facility is not hydraulically overloaded).

To show that the less concentrated influent wastewater is not the result of excessive I/I, the POTW authority would be required to submit information to the permitting authority that documents the flow to the facility (based on representative facility flow records and discharge monitoring reports) and the population of the service area. This information must demonstrate that the flows to the facility do not exceed the 120 and 275 gpcd values used in the specifications for nonexcessive infiltration and nonexcessive inflow. Information submitted must also verify that the facility does not have chronic operational problems due to hydraulic overloading. If the POTW authority cannot demonstrate that the facility is not subject to excessive I/I, it must then submit an evaluation survey of its sewer

system that defines the I/I problem through flow monitoring, identifies the quantities of I/I, if any, that can be more economically eliminated from the sewer system than transported and treated at the plant, and presents a sewer rehabilitation plan and schedule to implement measures to correct excessive I/I. The following guidance on conducting a sewer evaluation survey and cost-effectiveness analysis has been published by EPA: "Handbook for Sewer System Evaluation and Rehabilitation" (EPA 430/9-75-021) and "Construction Grants 1982 (CG-82)" (EPA 430/9-81-020), or when published "Construction Grants 1985 (CG-85)" (EPA 430/9-84-004). This guidance is available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

When adjusting the present removal requirement for a particular facility, the permitting authority would base the revised percent removal requirement or mass loading limit on the values achievable through proper operation and maintenance of the facility. In cases where less concentrated influents are a result of seasonal increases in flow, the permitting authority would consider seasonal permit limits to allow revised requirements only during those periods when increased flows or lower influent concentrations are occurring (e.g., lower percent removal or mass limits would apply only during certain months. An example of such a condition is the seasonal increase in flow from the elevated groundwater levels during wet seasons.

The preferred option recognizes that the percent removal requirement is a valuable regulatory tool but will allow for substitution of either a lower percent removal or a mass loading limit as the situation dictates. This flexibility provides relief to facilities that are experiencing various degrees of less concentrated influent and cannot meet the present percent removal requirement.

The Agency believes that this amendment will better reflect the influent strengths actually occurring and recognize the limited effectiveness of I/I correction. There will be greater flexibility given to be permitting authority by allowing use of a case-by-case analysis to adjust the percent removal requirements where the 85 percent requirement cannot be met. This same approach been successful in allowing special consideration for adjusting percent removal requirements for combined sewer systems (§ 133.103(a)).

Adjustments of the percent removal requirements in NPDES permits would be made on a case-by-case basis, based on the removal capability of the POTW, influent wastewater concentration and the I/I situation. The concentration limits in the permit would remain the same.

E. Remaining Actions

The Agency is publishing elsewhere in today's Federal Register the final rulemaking on limitations for treatment equivalent to secondary treatment and $CBOD_5$. The 65 percent removal requirement for equivalent treatment will be promulgated as an interim final provision of that rule to reflect this notice's solicitation of additional comment on amendments to the percent removal requirement. The Agency will publish the final rule on the percent removal requirements following review of the comments received.

Dated: September 12, 1984

Henry L. Longest II

Assistant Administration for Water.

[FR Doc. 84-24848 Filed 9-19-84; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Thursday
September 20, 1984

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Recombinant DNA Research; Notice of Proposed Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20205, on October 29, 1984, from 9:00 a.m. to adjournment at approximately 5:00 p.m. This meeting will be open to the public to discuss:

Report of the Working Group on Release into the Environment;

Report of the Working Group on Human Gene Therapy;

Amendment of Guidelines; and

Other matters to be considered by the Committee.

Attendance by the public will be limited to space available. Members of the public wishing to speak at the meeting may be given such opportunity at the discretion of the chair.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 3B10, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs forthe guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: September 12, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–24904 Filed 9–19–84; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Proposed Actions Under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on October 29, 1984, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by October 22, 1984.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m. Comments received by close of business October 24, 1984, will be reproduced and distributed to the RAC for consideration at its October 29, 1984, meeting.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban and Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

I. Proposed Amendment of Section III–D of the Guidelines.

In a letter dated August 21, 1984, Mr. C. Searle Wadley and Dr. John H. Keene of Abbott Laboratories, North Chicago, Illinois, propose that the following sentence be added to Section III–D of the Guidelines:

Although these experiments are exempt, it is recommended that they be performed at the appropriate biosafety level for the host or recombinant organism (for biosafety levels see "Biosafety in Microbiological and Biomedical Laboratories").

In support of their proposal, Mr. Wadley and Dr. Keene state that it would be advisable to recommend that appropriate biosafety levels be considered for those recombinant experiments that are exempt from the Guidelines.

II. Proposed Addition of Prohibited Experiments to the Guidelines.

Mr. Jeremy Rifkin of the Foundation on Economic Trends, Washington, D.C., submitted the following letter, dated August 21, 1984, to NIH:

I am formally requesting that the following item be placed on the agenda for the October 29, 1984 meeting of the Recombinant DNA Advisory Committee of the National Institutes of Health.

It has come to our attention that the National Institutes of Health and the National Science Foundation are helping to fund specific experiments by Dr. Ralph Brinster of the University of Pennsylvania in which human genes regulating growth hormone is being injected in to sheep and pig embryos with the express purpose of incorporating these human genes permanently into the germ line of these other mammalian species. These experiments are currently being conducted, in part, with the assistance and cooperation of the USDA at its agricultural experimental station at Beltsville, Maryland.

If successful, these experiments would represent the second time in history that a segment of the genetic make-up of homo-sapiens has been permanently transferred into the genetic make-up of another species. The Brinster team has already successfully transferred the human growth hormone gene into the germ line of mice. Thus, a dramatic new technological threshold has been crossed, making it imperative that the Federal Government act immediately and expeditiously to establish a policy in regard to such experimentation.

Therefore, I am proposing the following amendment to the NIH guidelines for recombinant DNA experimentation:

The NIH prohibits any experimentation involving the transfer of a genetic trait from one mammalian species into the germ line of another unrelated mammalian species. "Unrelated" shall be defined as any two species that cannot mate and produce one generation of offspring either in the wild or under pre-existing domestic breeding programs.

This NIH guideline shall encompass all mammalian species, including homo-sapiens. Upon adoption of this guideline by the NIH, said agency shall immediately discontinue funding any current experimental research involving the transfer of genetric traits from one mammalian species into the germ line of another unrelated mammalian species and shall instruct all institutions receiving NIH

grants that any such experimentation using private funds shall be grounds for the immediate suspension of all NIH research grants to the institution. This amendment shall also cover all private companies who are signatories of license agreements with NIH funded institutions where said agreements contain clauses requiring the licensee to adhere to the NIH guidelines involving recombinant DNA experimentation.

The intent of this amendment to the NIH guidelines is to protect the biological integrity of every mammalian species. Existing Federal policy, as reflected in many Federal statutes, protects the integrity and well being of species. The crossing of species borders and the incorporation of genetic traits from one species directly into the germ line of another species represents a fundamental assault on the principle of species integrity and violates the right of every species to exist as a separate, identifiable creature.

Certainly most human beings would condemn any attempt to introduce animal genes permanently into the germ line of homo-sapiens. We would abhor any such experiment as a gross and unconscionable violation of our telos as a species. In like manner this amendment establishes the principle that similar experiments between all other mammalian species be condemned and outlawed on the same grounds, i.e., that such an intrusion violates the telos of each species and is to be condemned as morally reprehensible.

As to non-mammalian species, the same principle of species integrity ought to apply. Therefore, I am proposing that in addition to the adoption of the above amendment to the NIH guidelines, the RAC immediately establish a working sub-group whose purpose will be to propose any additional protocols or guidelines that might be necessary to ensure compliance with the spirit of the above amendment in regard to the protection of the gem line of all species.

On August 23, 1984, Mr. Rifkin submitted an additional letter to NIH:

I am submitting an additional item for placement on the agenda for the October 29, 1984 meeting of the Recombinant DNA Advisory Committee of the National Institutes of Health. The following amendment to the NIH guidelines should be raised for discussion and debate along with the proposed amendment which I forwarded to you in my letter dated August 21, 1984. I would like this enclosed amendment to be considered first on the agenda and the amendment in my August 21 letter to be considered second.

The amendment shall read as follows:

The National Institutes of Health prohibits any experimentation involving the transfer of a genetic trait from a human being into the germ line of another mammalian species. The National Institutes of Health also prohibits any experimentation involving the transfer of a genetic trait from any mammalian species into the germ line of a human being. Furthermore, the National Institutes of Health considers any such experimentation involving the transfer of genetic traits between animal and human germ lines to be morally and ethically unacceptable.

Thank you for your time and consideration on this matter.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the offical government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: September 10, 1984.

Bernard Talbot, M.D., Ph.D.,

Acting Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

[FR Doc. 84-24312 Filed 9-19-84; 8:45 am]

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Federal Register

Thursday
September 20, 1984

Part IV

United States Information Agency

48 CFR Ch. 19

Acquisition Regulation; Proposed Rule

UNITED STATES INFORMATION AGENCY

48 CFR Ch. 19

Acquisition Regulation; Establishment of Chapter 19

AGENCY: United States Information Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the United States Information Agency proposal to establish the United States Information Agency Acquisition Regulation (IAAR) as Chapter 19 of the Federal Acquisition Regulation System (48 CFR). The IAAR will implement and supplement the FAR and will supersede the current IAPR Procurement Regulation (41 CFR Chapter 19).

DATES: Comments are due on or before October 22, 1984.

ADDRESS: Office of Contracts, Policy and Procedures Staff, U.S. Information Agency, Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Ms. Mary H. Wood, (202) 653-5570.

SUPPLEMENTARY INFORMATION: The draft IAAR is being made available for review and comment in accordance with OFPP Policy Letter 83-2 (48 FR 24492, June 1, 1983). The draft IAAR is based primarily on the current USIA Procurement Regulations (41 CFR Chapter 19). Generally, this proposed rule does not contain substantive new material It is therefore certified that the draft IAAR will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Further, the draft IAAR is a procurement regulation exempted from the requirements of Executive Order 12291 by the Director, OMB.

Title 48 of the Code of Federal Regulations is amended as set forth below:

List of Subjects in 48 CFR Ch. 19

Government procurement.

It is proposed to amend Title 48 by establishing Chapter 19 to read as follows:

CHAPTER 19—UNITED STATES INFORMATION AGENCY

SUBCHAPTER A—GENERAL

Part 1901—United States Information Agency Acquisition Regulation System
Part 1902—Definitions of Words and Terms
Part 1903—Improper Business Practices and Personal Conflicts of Interest
Part 1904—Administrative Matters

SUBCHAPTER B—ACQUISITION PLANNING

Part 1909—Contractor Qualifications
Part 1910—Specifications, Standards and Other Purchase Descriptions
Part 1912—Contract Delivery or Performance

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Part 1913—Small Purchase and Other Simplified Purchase Procedures
Part 1917—Special Contracting Methods

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Part 1919—Small Business and Small Disadvantaged Business Concerns
Part 1922—Application of Labor Laws to Government Acqusitions

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Part 1927—Patents, Data and Copyrights
Part 1932—Contract Financing

SUBCHAPTER G—CONTRACT MANAGEMENT

Part 1942—Contract Administration

SUBCHAPTER H—CLAUSES AND FORMS

Part 1952—Solicitation Provisions and Contract Clauses
Part 1953—Forms

SUBCHAPTER A—GENERAL

PART 1901—UNITED STATES INFORMATION AGENCY ACQUISITION REGULATION SYSTEM

Sec.
1901.000 Scope of Part.

Subpart 1901.1—Purpose, Authority, Issuance

1901.101 Purpose.
1901.102 Authority.
1901.103 Applicability.
1901.104 Issuance.
1901.104-1 Publication and code arrangement.
1901.104-2 Arrangement of regulations.

Subpart 1901.4—Deviations from the FAR

1901.401 Definition.
1901.403 Individual deviations.
1901.404 Class deviations.

Subpart 1901.6—Contracting Authority and Responsibilities

1901.601 General.
1901.602 Contracting officers.
1901.602-1 Authority.
1901.670 Ratification of unauthorized commitments.
1901.670-1 Authority.
1901.670-2 Definitions.
1901.670-3 Procedures.
1901.670-4 Limitations on exercise of authority.
1901.670-5 Nonratifiable commitments.

Authority: 40 U.S.C. 486(c).

1901.000 Scope of Part.

This part describes the method by which the United States Information Agency implements and supplements the Federal Acquisition Regulation and contains policies and procedures that implement and supplement Chapter 1 of the Federal Acquisition Regulation.

Subpart 1901.1—Purpose, Authority, Issuance

1901.101 Purpose.

This subpart establishes the United States Information Agency Acquisition Regulation (IAAR) as Chapter 19 of the Federal Acquisition Regulation System (48 CFR Chapter 19) and states the relationship of the IAAR to the Federal Acquisition Regulation (FAR), 48 CFR Chapter 1.

1901.102 Authority.

The USIA Acquisition Regulation is prescribed by the Director of the United States Information Agency pursuant to the authority of the Reorganization Plan No. 2 of 1977 and the Federal Property and Administrative Services Act of 1949, as amended, and other applicable law.

1901.103 Applicability.

Except where a deviation is specifically authorized in accordance with Subpart 1901.4 or otherwise authorized by law, the FAR and the IAAR govern all USIA acquisitions within the United States.

1901.104 Issuance.

1901.104-1 Publication and code arrangement.

(a) The IAAR is published in the Federal Register and, in cumulative form in the Code of Federal Regulations (CFR).

(b) The IAAR is issued as Chapter 19 of Title 48, CFR.

1901.104-2 Arrangement of regulations.

The IAAR uses the same numbering system and arrangement used in the FAR. Where the IAAR implements the FAR, it is numbered and captioned to correspond to the FAR. Wher there is no corresponding material in the FAR, numbers beginning with 70 or higher are assigned to the IAAR supplementing part. Where the subject matter in the FAR requires no implementation, the IAAR contains no corresponding part.

Subpart 1901.4—Deviations from the FAR

1901.401 Definition.

A deviation is defined in the same terms as that contained in FAR 1.401.

1901.403 Individual deviations.

Deviations from the IAAR or the FAR in individual cases shall be authorized by the Agency Procurement Executive or a designee unless FAR 1.405(e) is

applicable. The request shall cite the specific part of the IAAR or FAR from which it is desired to deviate; shall set forth the nature of the deviation(s); and shall give the reason for the action requested.

1901.404 Class deviations.

Class deviations affecting more than one contracting action shall be authorized only by the Agency Procurement Executive, unless FAR 1.405(e) is applicable, and shall be subject to the limitations set forth in FAR 1.404. Requests shall include the same information as cited in 1901.403.

Subpart 1901.6—Contracting authority and responsibilities

1901.601 General.

The Director, Office of Contracts, is designated the Agency Procurement Executive. The Agency Procurement Executive is delegated the full delegable authority of the Director of this Agency with respect to the acquisition of goods and services by contract, grants, cooperative agreements and such other methods as may be prescribed in the FAR. The Agency Procurement Executive is delegated overall responsibility by the Director for the Agency's contracting activities.

1901.602 Contracting officers.

1901.602-1 Authority.

USIA Contracting Officers designated by name on Certificates of Appointment by the Agency Procurement Executive are authorized to enter into, administer, and terminate contracts and make related determinations and findings, subject to all requirements and limitations set forth in the Certificate of Appointment. A list of USIA employees who have been appointed as Contracting Officers and the limits of their authroity is available from the Policy and Procedures Staff, Office of Contracts.

1901.670 Ratification of unauthorized commitments.

1901.670-1 Authority.

Only contracting officers acting within the scope of their authority (see FAR 1.602) may enter into contracts on behalf of the Government. Subject to the limitations in 1901.670-4, the HCA may ratify an unauthorized commitment, provided:

(a) The Government has obtained a benefit resulting from the unauthorized commitment;

(b) The HCA could have granted authority to enter into the commitment at the time it was made and still has the power to do so; and

(c) The resulting contract would otherwise have been proper if made by an authorized contracting officer.

1901.670-2 Definitions.

"Ratification," as used in this section, means that act of approving an unauthorized commitment, by an official who has the authority to do so, for the purpose of paying for supplies or services provided to the Government as a result of the unauthorized commitment.

"Unauthorized commitment," as used in this section, mneans an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into a contract on behalf of the Government.

1901.670-3 Procedures.

USIA components shall process unauthorized commitments using the ratification authority set forth herein in lieu of referral of such actions to the General Accounting Office for resolution as "quantum meruit/quantum valebant" claims.

1901.670-4 Limitations on exercise of authority.

The authority in 1901.670-1 may be exercised only where—

(a) Supplies or services have been provided to and accepted by the Government;

(b) The contracting officer determines the price to be fair and reasonable;

(c) The contracting officer recommends payment and legal counsel concurs in the recommendation;

(d) Funds are available and were available at the time the unauthorized commitment was made; and

(e) Administrative settlement of the unauthorized commitment would not involve a claim subject to resolution under the Contract Disputes Act of 1978.

1901.670-5 Nonratifiable commitments.

Cases that are not ratifiable under this section may be subject to resolution as recommended by the General Accounting Office under its claim procedure (4 GAO 5.1), or as authorized by FAR Part 50. Legal advice should be obtained in these cases.

PART 1902—DEFINITIONS OF WORDS AND TERMS

Subpart 1902.1—Definitions

1902.101 Definitions.

As used throughout this regulation, the following words and terms are used as defined in this subpart unless (a) the context in which they are used clearly requires a different meaning or (b) a different definition is prescribed for a particular part or portion of a part.

"Agency" means the United States Information Agency, acting through any of its duly authorized officials.

"Agency Procurement Executive" means the Director, Office of Contracts.

"AR/CO" means Authorized Representative of the Contracting Officer (See 1942.202-70).

"Contracting activity" means the Office of Contracts which has the responsibility to contract for the acquisition of supplies and services (including construction) and execute grants and cooperative agreements.

"Head of the agency" means the Agency Director and Deputy Director or the Associate Director for Management; and the term "authorized representative" means any person, persons or board (other than the contracting officer) authorized to act for the Head of the Agency.

"Head of the Contracting Activity (HCA)" means the head of each USIA office or division who has overall responsibility for managing the contracting activity with a written delegation of authority from the Head of the Agency or the Agency Procurement Executive.

"Purchasing Activity" means an office with one or more Level I or Level II Small Purchases Contracting Officer(s) exercising limited redelgations of contracting officer authority.

"USIA" means the United States Information Agency.

(40 U.S.C. 486(c))

PART 1903—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Sec.
1903.000 Scope of Part.

Subpart 1903.1—Safeguards

1903.101 Standards of conduct.
1903.101-2 Solicitation and acceptance of gratuities by Government personnel.
1903.101-3 Agency regulations.
1903.103 Independent pricing.
1903.103-2 Evaluating the certification.

Subpart 1903.2—Contractor Gratuities to Governmental Personnel

1903.203 Reporting suspected violations of the gratuities clause.
1903.204 Treatment of violations.

Subpart 1903.3—Reports of Suspected Antitrust Violations

1903.301 General.

Subpart 1903.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

1903.602 Exceptions.

1903.670 Contracts between USIA and former employees.
Authority: 40 U.S.C. 486(c).

1903.000 Scope of part.

This Part implements FAR Part 3, cites USIA regulations on employee responsibilities and conduct, establishes responsibility for reporting violations and related actions, and provides for authorization of exceptions to policy.

Subpart 1903.1—Safeguards

1903.101 Standards of conduct.

1903.101-2 Solicitation and acceptance of gratuities by Government personnel.

USIA employees and their spouses, minor children, and members of their households may not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from or on behalf of a USIA contractor. This general prohibition does not apply to the following:

(a) Gifts, gratuities, favors, entertainments, loans or any other thing of monetary value received on account of close family or personal relationships, when the circumstances make it clear that it is the relationship rather than the business of the persons concerned which is the motivating factor;

(b) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(c) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value;

(d) Acceptance of rates and discounts offered to employees as a class. Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(e) Contractor provided transportation, meals, or overnight accommodations in connection with official business when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable. Unless prior approval of the Agency Procurement Executive has been obtained, a full report of the circumstances of the acceptance shall be made to the employee's supervisor for inclusions in the contractor's file.

1903.101-3 Agency regulations.

(a) *General.* USIA regulations on Employee Responsibilities and Conduct are contained in 22 CFR Part 10. All personnel involved in acquisition actions shall become familiar with the statutory and regulatory prohibitions. Any questions concerning them shall be referred to the Agency's Office of the General Counsel.

(b) *Non-disclosure of proposed acquisitions.* Agency personnel, particularly requirements officers, project officers, technical staff and their supervisors often need to discuss standard commercial products or services, new manufacturing techniques, processes and equipment with members of industry in their efforts toward the goal of obtaining a quality product or service for the Agency. During these discussions, Agency personnel shall not disclose any information on a specific acquisition, especially its funding and scheduling. Information on proposed acquisitions shall be released to all prospective contractors in a common solicitation at the same time.

1903.103 Independent pricing.

1903.103-2 Evaluating the certification.

Whenever an offer is rejected under FAR 3.103-2 or the Certificate of Independent Price Determination is suspected of being false, the Contracting Officer shall report the situation to the Inspector General through the Agency Procurement Executive for referral to the Attorney General in accordance with FAR 3.303.

Subpart 1903.2—Contractor Gratuities to Government Personnel

1903.203 Reporting suspected violations of the Gratuities clause.

USIA personnel, particularly Contracting Officers, shall promptly report, by memorandum, suspected violations of the Gratuities clause in solicitations or contracts to the Agency Procurement Executive.

1903.204 Treatment of violations.

Suspected violations shall be treated as provided in the USIA debarment and suspension procedures in Subpart 1909.4.

Subpart 1903.3—Reports of Suspected Antitrust Violations

1903.301 General.

The Contracting Officer shall report any instances of suspected collusion or other violations of antitrust laws in connection with competitive acquisitions to the General Counsel through the Agency Procurement Executive for possible referral to the Attorney General in accordance with FAR Subpart 3.3.

Subpart 1903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

1903.602 Exceptions.

To avoid potential conflicts of interest or the appearance of preferential treatment, it is USIA policy not to award contracts, purchase orders, grants or cooperative agreements to Government employees or their family members or business concerns owned or controlled by Government employees or their family members. Exceptions to this policy must be approved by the Agency Director or Agency Procurement Executive and supported by written Findings and Determination. A contract with an employee for services may result in violation of the dual salary compensation statutes (5 U.S.C. 5533). Nothing in this paragraph is intended to render inapplicable the conflict of interest prohibition set out in 18 U.S.C. 208.

Subpart 1903.670—Contracts Between USIA and Former Employees

To avoid conflicts of interest or the appearance of preferential treatment, purchase orders, contracts, grants or cooperative agreements with former employees of USIA, or with firms in which former employees or their family members are known to have controlling interest, may be entered into in the two years following separation from employment only with the written approval of the Agency Director. A written justification shall be made a part of the file. The justification must address the issue of conflict of interest and conclude that it does not exist; or that in spite of its existence, the Agency's ability to meet its mission would be seriously harmed without the award.

PART 1904—ADMINISTRATIVE MATTERS

Subpart 1904.70—Procurement Requests

1904.7001 General.

(a) Procurement requests will be prepared and submitted to the contracting office in accordance with Agency procedures.

(b) Except in unusual circumstances, the contracting office will not issue solicitations until an approved procurement request, containing a certification that funds are available, has been received. However, the contracting office may take all necessary actions up to the point of

contract award prior to the receipt of the approved procurement request certifying that funds are available when:

(1) Such action is necessary to meet critical program schedules;

(2) It has been established that program authority has been issued and that funds to cover the acquisition will be available prior to the date set for contract award or contract modification;

(3) A person at a level above the contracting officer authorizes such action prior to the issuance of the solicitation, and the contract file is properly documented; and

(4) The solicitation document clearly indicates that the award is subject to the availability of funds.

(c) The procurement request shall be assigned within the contracting office to an individual who, if not the contracting officer, will be responsible to the contracting officer for conducting the business aspects of the transaction. This individual shall review the request to ensure that it complies with the FAR and this Regulation and that the information contained in the request is in sufficient detail to prepare presolicitation and solicitation documents. The contracting officer, or other designated individual in the contracting office, shall discuss uncertain requirements or inconsistencies in the procurement request with the initiator of the request and obtain clarification prior to taking any further action.

(40 U.S.C. 486(c))

SUBCHAPTER B—ACQUISITION PLANNING

PART 1909—CONTRACTOR QUALIFICATIONS

Subpart 1909.4—Debarment, Suspension, and Ineligibility

Sec.

1909.403 Definitions.
1909.404 Consolidated list of debarred, suspended, and ineligible contractors.
1909.406 Debarment, suspension, and ineligibility.
1909.406-3 Procedures.

Authority: 40 U.S.C. 486(c).

Subpart 1909.4—Debarment, Suspension, and Ineligibility

1909.403 Definitions.

The Agency Procurement Executive, is designated the "debarring official" and the "suspending official" as defined in FAR 9.403 and is designated as the agency official authorized to make the decisions required in FAR 9.405(a), 9.405-1(b), 9.405-2, 9.406-1(c), and 9.407-1(d).

1909.404 Consolidated list of debarred, suspended, and ineligible contractors.

(a) The Policy and Procedures Staff, Office of Contracts, shall be responsible for the maintenance and distribution of the GSA Consolidated List of Debarred, Suspended, and Ineligible Contractors. It will be coordinated with the Solicitation Mailing List and appropriate notations will be made on both lists, when additions or deletions are necessary. Contracting Officers shall notify the Policy and Procedures Staff, Office of Contracts, of their distribution needs and shall ensure that the list is used effectively.

(b) The Agency Procurement Executive (or designee) is responsible for notifying GSA of the information required by FAR 9.404(b).

1909.406 Debarment, suspension, and ineligibility.

1909.406-3 Procedures.

(a) *Investigation and referral.* Any officer of the Agency that becomes aware of circumstances which may serve as a basis for a debarment, suspension, or ineligibility shall report the circumstances by memorandum to the Agency Procurement Executive for consideration of debarment, suspension or ineligibility action.

(b) *Decision making process.* (1) Contractors shall be given the opportunity to submit, in person, in writing, or through a representative, information and arguments in opposition to a proposed debarment or suspension. All rebuttals shall be addressed to the Agency Procurement Executive. However, if a response to the proposed debarment or suspension is not received by the Agency Procurement Executive within 30 calendar days of receipt of the notice, the debarment or suspension shall become final.

(2) If a contractor, or a representative, desires to present information and arguments in person to the Agency Procurement Executive, an oral presentation will be held within 20 calendar days of receipt of the request, unless a longer period of time is requested by the contractor. Hearings will be held before a three-person fact-finding board composed of one member each from the office of the General Counsel and Congressional Liaison, Associate Director, Bureau of Management, and an Officer of the Office of Contracts, other than the initiating officer. The fact-finding board shall deliver written findings to the Agency Procurement Executive (together with a transcription of the proceedings, if made) within 10 calendar days after the hearing. The findings shall resolve any facts in dispute based on a preponderance of the evidence presented and determine whether a cause for debarment or suspension exists.

(c) *Debarring/suspending official's decision.* The debarring/suspending official's final decision shall be made in writing in accordance with FAR 9.406-3 and notice of the decision will be given in accordance with FAR 9.406-3. A copy of the notice shall be given to the affected agency component.

PART 1910—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

§ 1910.011 Solicitation provisions and contract clauses.

The Contracting Officer shall include the provision at 1952.210-70, Brand Name or Equal, in solicitations for which a brand name or equal purchase is used.

(40 U.S.C. 486(c))

PART 1912—CONTRACT DELIVERY OR PERFORMANCE

Subpart 1912.70—Delays

1912.701 Delays.

The Contracting Officer shall insert the clause at 1952.212-70 in all USIA contracts.

(40 U.S.C. 486(c))

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 1913—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1913.1—General

Sec.

1913.106 Competition and price reasonableness.
1913.106.70 Data to support small purchases over $1,000.
1913.107 Solicitation and evaluation of quotations.

Subpart 1913.2—Blanket Purchase Agreements

1913.20 General.
1913.203 Establishment of blanket purchase agreements.
1913.203-1 General.

Subpart 1913.4—Imprest Fund

1913.404 Conditions for use.
1913.405 Procedures.

Subpart 1913.5—Purchase Orders

1913.505 Purchase order and related forms.
1913.505-2 Agency order forms in lieu of

Optional and Standard Forms.
Authority: 40 U.S.C. 486(c).

Subpart 1913.1—General

1913.106 Competition and price reasonableness.

1913.106-70 Data to support small purchases over $1,000.

Form IA-21, Abstract of Quotations (see 1953.370-21) may be used to satisfy documentation requirements of FAR 13.106(c).

1913.107 Solicitation and evaluation of quotations.

(a) Standard Form 18, Request For Quotations, shall be used to obtain written quotations as prescribed in FAR 13.107(a) unless an equivalent form has been authorized for use by the procurement executive. (See also FAR 53.103.) Exceptions under this subpart shall be processed through the procurement executive.

(b) Quotations on standard contractor quotation forms may be accepted when they provide sufficient information for fair and equal competitive evaluation.

Subpart 1913.2—Blanket Purchase Agreements

1913.20 General.

The head of the contracting activity may require that only contracting officers make purchases under a blanket purchase agreement.

1913.203 Establishment of blanket purchase agreements (BPAs).

1913.203-1 General.

Blanket purchase agreements shall be established and administered in accordance with Agency instructions.

Subpart 1913.4—Imprest Fund

1913.404 Conditions for use.

Imprest funds may be used for small purchases when the transaction does not exceed $150 ($300) under emergency conditions).

1913.405 Procedures.

(a) The individual making an approved purchase from the imprest fund shall be responsible for compliance with documentation requirements.

(b) The individual having acquisition authority to approve purchases from the imprest fund shall be responsible for checking the authorized purchase requisition for compliance with the internal control requirements.

Subpart 1913.5—Purchase Orders

1913.505 Purchase order and related forms.

1913.505-2 Agency order forms in lieu of Optional and Standard Forms.

(a) Optional Forms 347 and 348 shall be used as prescribed in FAR 13.505 unless an equivalent form has been authorized for use by the Agency Procurement Executive (or Designee). Exceptions may be granted, on a case by case basis, in order to accommodate computer-generated purchase order forms. Exception approval for over printing (FAR 53.104) is not needed.

(b) USIA Form IA-44 (See 1953.370-44) is authorized for use when obtaining nonpersonal services on an intermittent basis for such services as script writers, translaters, narrators, etc.

PART 1917—SPECIAL CONTRACTING METHODS

Subpart 1917.1—Multiyear Contracting

1917.102 Policy.

When consistent with section 304(b) of Pub. L. 97-241, the Agency head may approve multiyear contracts up to five years.

(40 U.S.C. 486(c))

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 1919—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 1919.2—Policies

Sec.
1919.201 General policy.
1919.201-70 Director, Office of Small and Disadvantaged Business Utilization.
Authority: 40 U.S.C. 486(c).

Subpart 1919.2—Policies

1919.201 General policy.

The Director, Office of Contracts shall also serve as the Director, Office of Small and Disadvantaged Business Utilization (OSDBU).

1919.201-70 Director, Office of Small and Disadvantaged Business Utilization.

The Director, OSDBU, is responsible for the implementation and execution of the small, and small disadvantaged business programs required by sections 8 and 15 of the Small Business Act, as amended, and provides guidance and advice, as appropriate, to agency program and contracts officials. The Director, OSDBU, is the central point of contact of general inquiries concerning the small and disadvantaged business programs from industry, the Small Business Administration (SBA), and from the Congress. The Director, OSDBU, shall represent the Agency in discussions with other Government agencies on small and small disadvantaged business matters.

PART 1922—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 1922.3—Contract Work Hours and Safety Standards Act

Sec.
1922.305 Contract Clauses.

Subpart 1922.4—Labor Standards for Contracts Involving Construction

1922.470 Contract clauses.

Subpart 1922.10—Service Contract Act of 1965

1922.1070 Clause for contracts over $2,500.
Authority: 40 U.S.C. 486(c).

Subpart 1922.3—Contract Work Hours and Safety Standards Act

1922.305 Contract clause.

The Contracting Officer shall insert the clauses at 1952.222-82 and 1952.222-83 in lieu of the clause at FAR 52.22-4 until such time as the latter is updated to reflect the requirements of DOL Regulations, 29 CFR 5.5(c), implemented by FPR Temp. Reg. 70, dated June 28, 1983.

Subpart 1922.4—Labor Standards for Contracts Involving Construction

1922.470 Contract clauses.

(a) Except as required by 1922.470(b), every construction contract in excess of $2,000 (or of such other amount as may be specifically indicated) for work within the United States shall include the following clauses:

Davis-Bacon Act (40 U.S.C. 276a—276a-7) clause of 1952.222-70.
Contract Work Hours and Safety Standards Act Overtime Compensation (40 U.S.C. 327-333) clause at 1952.222-71.
Apprentices and Trainees clause at 1952.222-72.
Payrolls and Basic Records clause at 1952.222-73.
Compliance with Copeland Act Requirements clause at 1952.222-74.
Withholding clause at 1952.222-75.
Subcontracts clause at 1952.222-76.
Contract Termination; Debarment clause at 1952.222-77.
Disputes Concerning Labor Standards clause at 1952.222-78.
Compliance with Davis-Bacon and Related Act Requirements clause at 1952.222-79.
Certification of Eligibility clause at 1952.222-80.

(b) Every construction contract in excess of $2,000 for work outside the

United States, but which is nevertheless subject to the Contract Work Hours and Safety Standards Act as set forth in FAR Subpart 22.3, shall include the Work Hours and Safety Standards Act Overtime Compensation clause at 1952.222-71.

Subpart 1922.10—Service Contract Act

1922.1070 Clause for contract over $2,500.

The Contracting Officer shall insert in full text the clause at 1952.222-81, Service Contract Act of 1965, As Amended, in solicitations and contracts, in excess of $2,500, or in an indefinite amount, the principal purpose of which is to furnish services through the use of service employees.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 1927—PATENTS, DATA AND COPYRIGHTS

Subpart 1927.4—Rights in Data and Copyrights

Sec.
1927.400 Scope of subpart.
1927.401 Definitions.
1927.402 Policy.
1927.403 Procedures.
1927.404 Acquisition of data.
1927.405 Solicitation provisions and contract clauses.

Authority: 40 U.S.C. 486(c).

Subpart 1927.4—Rights in Data and Copyrights

1927.400 Scope of subpart.

This subpart sets forth policies, procedures, and instructions with respect to (a) rights in data and copyrights and (b) requirements for data.

1927.401 Definitions.

"Computer software," as used in this subpart, means computer programs, computer data bases, and documentation thereof.

"Data," as used in this subpart, means recorded information, regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analysis or any financial, business and management information required for contract administration purposes.

"Form, fit, and function data," as used in this subpart, means data relating to, and sufficient to enable, physical and functional interchangeability; as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

"Limited rights," as used in this subpart, means the rights of Government in limited-rights data, as set forth in a Limited Rights Notice if included in the data rights clause of the contract.

"Limited-rights data," as used in this subpart, means data that embodies trade secrets or is commercial or financial and confidential or privileged, to the extent that such data pertains to items, components or processes developed at private expense, including minor modifications thereof. (Agencies may, however, adopt the following alternate definition: "Limited-rights data," as used in this subpart, means data developed at private expense that embodies trade secrets or is commercial or financial and confidential or privileged.)

"Restricted computer software," as used in this subpart, means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is published copyrighted computer software.

"Restricted rights," as used in this subpart, means the rights of the Government in restricted computer software as set forth in a Restricted Rights Notice if included in a data rights clause of the contract or as otherwise may be included or incorporated in the contract.

"Unlimited rights," as used in this subpart, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

1927.402 Policy.

It is necessary for the U.S. Information Agency in order to carry out its missions and programs, to acquire or obtain access to many kinds of data produced during or used in the performance of its contracts. Such data may be required to: obtain competition among suppliers; fulfill certain responsibilities for disseminating and publishing the results of USIA activities; insure appropriate utilization of the results of research, development, and demonstration activities; and meet other programmatic and statutory requirements. At the same time, the Government recognizes that its contractors may have a property right or other valid economic interest in certain data resulting from private investment, and that protection from unauthorized use and disclosure of this data is necessary in order to prevent the compromise of such property right or economic interest, avoid jeopardizing the contractor's commercial position, and maintain the Government's ability to obtain access to or use of such data. The protection of this data by the Government is necessary to encourage qualified contractors to participate in Government programs and apply innovative concepts to such programs. The specific procedures and prescriptions for use of solicitation provisions and contract clauses set forth below are framed in light of the above considerations to strike a balance between the Government's needs and the contractor's property rights and economic interests.

1927.403 Procedures.

(a) *General.* All contracts that require data be produced, furnished, or acquired must contain terms that delineate the respective rights and obligations of the Government and the contractor regarding the use, duplication, and disclosure of such data, except certain contracts resulting from formal advertising that require only existing data (other than limited-rights data and restricted computer software) to be delivered and reproduction rights are not needed for such data. As a general rule, the data rights clause at 1952.227-71, Rights in Technical Data—General, where determined appropriate by the Agency as discussed in paragraph (b) below, is to be used for this purpose. However, certain types of contracts, the particular subject matter of a contract, or the intended use of the data, may require the use of other clauses or no clause at all, as discussed in paragraphs (c) and (d) below.

(b) *Basis Rights in Data.*—(1) *Summary.* The clause at 1952.227-71, Rights in Technical Data—General, is structured to strike a balance between USIA's needs in carrying out its missions and programs and the contractor's needs to protect property rights and valid economic interests in certain data arising out of private investment. This clause enables the contractor to protect from unauthorized use and disclosure data that qualified as limited-rights data or restricted computer software (see paragraph (b)(2) below for an alternate definition of limited-rights data). This clause also specifically delineates the categories or types of data that USIA is to acquire with unlimited rights (see paragraph (b)(3) below). The contractor may protect qualifying limited-rights data and restricted computer software under this clause by either withholding such data from delivery to USIA, or when USIA has a need to obtain delivery of

limited-rights data or restricted computer software, by delivering such data with limited rights or restricted rights with authorized notices on the data. (See paragraphs (b) (4) and (5) below.) In addition, this clause enables contractors to establish and/or maintain copyright protection for data first produced and/or delivered under the contract, subject to certain license rights in the Government. (See paragraph (b)(6) below.) This clause also includes rights in the Government. (See paragraph (b)(6) below.) This clause also includes authorized (see paragraph (b)(7) below) or when a contractor wishes to add or correct omitted or incorrect notices on data (see paragraph (b)(8) below); addresses the contractor's right to release, publish or use certain data involved in contract performance (see paragaph (b)(9) below); and provides for the possibility for the Government to inspect certain data at the contractor's facility (see paragraph (b)(10) below).

(2) *Alternate definition of limited-rights data.* In the clause at 1952.227-71, Rights in Technical Data—General, in order for data to qualify as limited-rights data, in addition to being data that either embodies a trade secret or is data that is commercial or financial and confidential or privileged, such data must also pertain to items, components, or processes developed at private expense, including minor modifications thereof. However, where appropriate, the contracting officer may determine to adopt in the clause the alternate definition for limited-rights data that does not require that such data pertain to items, components, or processes developed at private expense; but rather that the data that either embodies a trade secret or is commercial or financial and confidential or privileged be produced at private expense in order to qualify as limited-rights data. As an example, this alternate definition may be used where the principal purpose of a contract does not involve the development, use or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or any anticipated follow-on contracts relating to the same subject matter). Other examples include contracts for market research and surveys, economic forecasts, socioeconomic reports, educational material, health and safety information, management analysis, and related matters.

(3) *Unlimited-rights data.* Under the clause at 1952.227-71, Rights in Technical Data—General, the Government acquires unlimited rights in the following data except as provided in paragraph (b)(6) below for copyrighted data: (i) Data first produced in the performance of a contract; (ii) form, fit, and function data delivered under contract; (iii) data (except as may be included with restricted computer software) that constitutes manuals or instructional and training material for installation, operation, or routine maintenance and repair delivered under a contract; and (iv) all other data delivered under the contract unless such data qualifies as limited-rights data or restricted computer software. If any of the foregoing data is published copyrighted data, the Government acquires it under a copyright license as set forth in paragraph (b)(6) below rather than with limited rights or restricted rights.

(4) *Protection of limited-rights data.* (i) The contractor may protect data (other than unlimited rights data or published copyrighted data) that qualifies as limited-rights data under the clause at 1952.227-71, Rights in Technical Data—General, by withholding such data from delivery and providing form, fit, and function data in lieu thereof; or, if and USIA specifies the delivery of the data, by delivering such data with limitations on its use and disclosure. These two modes of protection afforded the contractor (i.e., withhold, or deliver with limited rights) are provided for in paragraph (g) of the clause at 1952.227-71, Rights in Technical Data—General. Subparagraph (g)(1) of this clause allows the contractor to withhold limited-rights data and provide form, fit, and function data in lieu thereof. Subparagraph (g)(2) of this clause enables USIA selectively to obtain the delivery of withheld or withholdable data with limited rights. The limitations on the Governments right to use and disclose limited-rights data when the clause is used are set forth in a "Limited Rights Notice" that the contractor is required to affix to such data. The specific limitations in the Notice are described below.

(ii) The Limited-rights data delivered to the Government with the Limited Rights Notice contained in subparagraph (g)(2) will not, without permission of the contractor, be used by the Government for purposes of manufacture, and will not be disclosed outside the Government except for certain limited purposes as may be set forth in the Notice, and then only if the Government makes the disclosure subject to prohibition against further use and disclosure by the recipient. The following are examples of specific purposes which may be selected by an agency and added to the Limited Rights Notice of subparagraph (g)(2) of the clause:

(A) Use by support service contractors.

(B) Evaluation by nongovernment evaluators.

(C) Use by other contractors participating in the USIA program of which this contract is a part, for information and use in connection with the work performed under their contracts.

(D) Emergency repair or overhaul work.

(E) Release to a foreign government, as the interests of the United States may require, for information or evaluation, or for emergency repair or overhaul work by such Government.

(iii) As an aid in determining whether the clause should be used with the provision at 1952.227-70, Notification of Limited Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 1952.227-71, Rights in Technical Data—General.

(5) *Protection of restricted computer software.* (i) If computer software qualifies as restricted computer software, the clause at 1952.227-71, Rights in Technical Data—General, permits the contractor to protect such software by either withholding it from delivery and providing form, fit, and function data in lieu thereof; or if USIA specifies delivery of the software, by delivering the software with restricted rights regarding its use, disclosure, and reproduction. The two modes of protection afforded the contractor (i.e. withhold or deliver with restricted rights) are provided for in paragraph (g) of the clause at 1952.227-71, Rights in Technical Data—General. Subparagraph (g)(1) of this clause allows the contractor to withhold restricted computer software and provide form, fit, and function data in lieu thereof. The restrictions on the Government's right to use, disclose, and reproduce restricted computer software when the clause is used are set forth in "Restricted Rights Notice" that the contractor is required to affix to such computer software. When restricted computer software delivered with such Notice is published copyrighted computer software, it is acquired with a restricted copyright license, without disclosure prohibitions, as also set forth in the Notice. The specific restrictions in the Notice are set forth below.

(ii) Restricted computer software delivered with the Restricted Rights Notice of subparagraph (g)(3) will not be

used or reproduced by the Government, or disclosed outside the Government, except that the computer software may be:

(A) Used, or copied for use in or with the computer for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(B) Used, or copied for use in or with a backup computer if the computer or computers for which it is a acquired is inoperative;

(C) Reproduced for safekeeping (archives) or backup purposes;

(D) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of any derivative software incorporating restricted computer software are made subject to the same restricted rights; and

(E) Disclosed and reproduced by support contractors or their subcontractors, subject to the same restrictions under which USIA acquired the software.

(iii) The restricted rights set forth in 1927.403(b)(5)(ii) above are the minimum rights the Government normally obtains with restricted computer software and will automatically apply when such software is acquired under the Restricted Rights Notice of subparagraph (g)(3) of the clause. However, either greater or lesser rights, consistent with the purposes and needs for which the software is to be acquired, may be specified in the contract. Any additions to, or limitations on, the restricted rights set forth in the Restricted Rights Notice of subparagraph (g)(3) of the clause are to be expressly stated in the contract; or, with approval of the contracting officer, in a collateral agreement incorporated in and made part of the contract. (See paragrah (d)(2) below.)

(iv) As an aid in determining whether the clause should be used the provision at 1952.227-70, Notification of Limited-Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 1952.227-71, Rights in Technical Data—General. In addition, the need should be considered during negotiations of a contract, particularly if negotiations are based on an unsolicited proposal.

(6) *Copyrighted data.*—(i) Data first produced in the performance of a contract. (A) In order to enhance the transfer to dissemination of information produced at Government expense, contractors may be permitted to establish claim to copyright subsisting in data first produced in the performance of work under a contract containing the clause at 1952.227-71, Rights in Technical Data—General. This right is granted in subparagraph (c)(1) of the clause for any data first produced under the contract. USIA may, however, specifically exclude items or categories of data from the right of the contractor to establish claim to copyright when appropriate; for example, where the data is to be disseminated in useful form by the Government. Also, agencies having programs for the transfer or dissemination of information resulting from its programs may, by use of the clause, include a substitute subparagraph (c)(1) in the clause to limit the right of the contractor granted in subparagraph (c)(1) to establish claim of copyright to scientific and technical articles based on or derived from work performed under the contract and published in academic, professional, or technical journals. However, permission may be granted to establish claim to copyright in all other data in accordance with the procedures set forth in paragraph (b)(6)(i)(B) below.

(B) Usually permission for a contractor to establish claim to copyright for data first produced under the contract will be granted when copyright protection will enhance the appropriate transfer or dissemination of such data. The request for permission must be in writing, and may be made either at the time of contracting or subsequently during contract performance. It should identify the data involved or furnish a copy of the data for which permission is requested, as well as a statement as to the intended publication or dissemination media or other purpose for which copyright is desired. The request normally will be granted unless: (*1*) The data consists of a report that represents the official views of USIA or that USIA is required by statute to prepare; (*2*) the data is intended primarily for internal use by the Government; (*3*) the data is of the type that USIA itself distributes to the public under an established program; or (*4*) USIA determines their limitation on distribution of the data is in the national interest.

(C) Whenever a contractor establishes claim to copyright subsisting in data first produced in the performance of a contract, the Government normally is granted a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute to the public, perform publicly and display publicly by or on behalf of the Government, for all such data, as set forth in subparagraph (c)(1) of the clause at 1952.227-71, Rights in Technical Data—General. However, USIA may on a case-by-case basis or on a class basis obtain on equitable terms a license of lesser scope than set forth in subparagraph (c)(1) of the clause if USIA determines that such lesser license will substantially enhance the transfer or dissemination of any data first produced under the contract.

(ii) Data not first produced in the performance of a contract. (A) Contractors are not to incorporate in data delivered under contract any data not first produced under the contract with the copyright notice of 17 U.S.C 401 or 402 without either: Acquiring for, or granting to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data; or obtaining permission from the contracting officer to do otherwise. However, if computer software not first produced under contract is delivered with the copyright notice of 17 U.S.C. 401 or 402, the Government's license will be as set forth in subparagraph (g)(3) if included in the clause at 1952.227-71, Rights in Technical Data—General, or as otherwise may be provided in a collateral agreement incorporated in or made part of the contract.

(B) Contractors delivering data with an authorized limited rights or restricted rights notice and a copyright notice of 17 U.S.C. 401 or 402 should modify the copyright notice to include the following (or similar) statement: "Unpublished—all rights reserved under the copyright laws." If this statement is omitted, the contractor may be afforded opportunity to correct it in accordance with 1927.403(b)(8). Otherwise, data delivered with a copyright notice of 17 U.S.C., 401 or 402 may be presumed to be published copyrighted data subject to the applicable license rights set forth in paragraph (b)(6)(i)(A) above, without disclosure limitations or restrictions.

(C) If contractor action causes limited rights or restricted rights data to be published with copyright notice after its delivery to the Government, the Government is relieved of disclosure and use limitations and restrictions regarding such data, and the contractor should advise the Government and request that a copyright notice be placed on the data, and acknowledge the applicable copyright license.

(7) *Unauthorized marking of data.* The Government has, in accordance with paragraph (e) of the clause at 1952.227-71, Rights in Technical Data—General, the right either to return to the contractor data containing markings not authorized by that clause or to cancel or

ignore such markings. However, markings will not be cancelled or ignored without making written inquiry of the contractor and affording the contractor at least 30 days to substantiate the propriety of the markings. The contracting officer will also give the contractor notice of any determination made based on any response by the contractor. Any such determination to cancel or ignore the makings shall be a final decision under the Contract Disputes Act. Failure of the contractor to respond to the contracting officer's inquiry within the time afforded may, however, result in Government action to cancel or ignore the markings. The above procedures may be modified in accordance with USIA regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request for data thereunder.

(8) *Omitted or incorrect notices.* (i) Data delivered under a contract containing the clause at 1952.227-71, Rights in Technical Data—General, without a limited-rights notice or restricted rights notice, or without a copyright notice, shall be presumed to have been delivered with unlimited rights, and the Government assumes no liability for the disclosure, use or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the contractor may within six months (or a longer period approved by the contracting officer for good cause shown) request permission of the contracting officer to have omitted limited rights or restricted rights notices, as applicable, placed on qualifying data at the contractor's expense, and the contracting officer may agree to so permit if the contractor—

(A) Identifies the data for which a notice is to be added or corrected;

(B) Demonstrates that the omission of the proposed notice was inadvertent;

(C) Establishes that use of the proposed notice is authorized; and

(D) Acknowledges that the Government has no liability with respect to any disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(ii) The contracting officer may also (A) permit correction at the contractor's expense of incorrect notices if the contractor identifies the data on which correction of the notice is to be made and demonstrates that the correct notice is authorized, or (B) correct any incorrect notices.

(9) *Release, publication and use of data.* (i) In the clause at 1952.227-71, Rights in Technical Data—General, paragraph (d) provides that contractors normally have the right to use, release to others, reproduce, distribute, or publish data first produced or specifically used by the contractor in the performance of a contract; however, to the extent the contractor receives or is given access to data that is necessary for the performance of the contract and the data contains restrictive markings, the contractor agrees to treat the data in accordance with such markings, unless otherwise specifically authorized in writing by the contracting officer.

(ii) USIA may, on a case-by-case basis, or on a class basis, place further limitations or restrictions on the contractor's right to use, release to others, reproduce, distribute or publish any data first produced (but not data specifically used) in the performance of the contract. Such restrictions are not to be imposed on a class basis unless they are pursuant to statutory requirements, determined to be necessary in the furtherance of USIA mission objectives, or determined to be necessary in support of specific USIA programs.

(10) *Inspection of data at the contractor's facility.* USIA may obtain the right to inspect data at the contractor's facility by use of paragraph (j) of the clause to provide that right in the clause at 1952.227-71, Rights in Technical Data—General. The data subject to inspection may be data withheld or withholdable under subparagraph (g)(1) of the clause, or any data specifically used in the performance of the contract. Such inspection may be made by the contracting officer or representative for the purpose of verifying a contractor's assertion regarding the limited rights or restricted rights status of the data, or for evaluating work performance under the contract. This right may be exercised at all reasonable times up to three years after acceptance of all items to be delivered under the contract. The contract may specify data items that are not subject to inspection under paragraph (j) of the clause. If the contractor demonstrates to the contracting officer that there would be a possible conflict of interest if inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(c) *Production of special works.* (1) The clause at 1952.227-73; Rights in Data—Special Works, applies to contracts (or may be made applicable to portions thereof) that are primarily for the production or compilation of data (other than limited-rights data or restricted computer software) for the Government's internal use, or when there is a specific need to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples are contracts for—

(i) The production of audiovisual works including motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptions, and the like;

(ii) Histories of the respective agencies, departments, services, or units thereof;

(iii) Works pertaining to recruiting, morale, training, or career guidance;

(iv) Surveys of Government establishments;

(v) Works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties;

(vi) The compilation of reports, studies, surveys, or similar documents that do not involve research, development, or experimental work performed by the contractor;

(vii) The collection of data containing identifiable personal information such that the disclosure thereof would violate the right of privacy or publicity of the individual to whom the information relates;

(viii) Investigatory reports; or

(ix) The development, accumulation, or compilation of data (other than that resulting from research, development, or experimental work performed by the contractor), the early release of which could prejudice follow-on acquisition activities.

(2) The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced other than for contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the works are acquired.

(d) *Acquisition of existing data other than limited-rights data*—(1) *Existing audiovisual and similar works.* The clause at 1952.227-74, Rights in Data—Existing Works, is for the use in contracts exclusively for the acquisition (without modification) of existing motion pictures, television recordings, and other audiovisual works; sound recordings; musical, dramatic, and literary works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; and works of a

similar nature. The contract may set forth limitations consistent with the purposes for which the works covered by the contract are being acquired. Examples of these limitations are: (i) Means of exhibition or transmission, (ii) time, (iii) type of audience, an (iv) geographical location. If the contract requires that works of the type indicated above are to be modified through editing, translation, or addition of subject matter, etc. (rather than purchased in existing form), the clause at 1952:227-73 Rights in Data—Special Works, is to be used. (See 1927.403(c).)

(2) *Separate acquisition of existing computer software.* (i) If the contract is for the separate acquisition of existing computer software, no specific contract clause contained in this subpart need be used. However, the contract must specifically address the Government's rights to use, disclose, and reproduce the software, and must contain terms obtaining sufficient rights for the Government to fulfill the need for which the software is being acquired. The restricted rights set forth in 1927.403(b)(5) should be used as a guide and are usually the minimum the Government should accept. If the computer software is to be acquired with unlimited rights, the contract must also so state. In addition, the contract must adequately describe the computer programs and/or data bases, the form (tapes, punch cards, disc pack, and the like), and all the necessary documentation pertaining thereto. If the acquisition is by lease or license, the disposition of the computer software (by returning to the vendor or destroying) at the end of the term of the lease or license must be addressed.

(ii) If the contract incorporates, makes reference to, or uses a vendor's standard commerical lease, license, or purchase agreement, such agreement shall be reviewed to assure that it is consistent with paragraph (d)(2)(i) above. Caution should be exercised in accepting a vendor's terms and conditions since they may be directed to commerical sales and may not be appropriate for Government contracts. Any inconsistencies in a vendor's standard commerical agreement shall be addressed in the contract, and the contract terms shall take precedence over the vendor's standard commerical agreement.

(iii) If a prime contractor under a contract containing the clause at 1952.227-71, Rights in Technical Data—General, with subparagraph (g)(3) in the clause, acquires restricted computer software from a subcontractor (at any tier) as a separate acquisition for delivery to the Government, the contracting officer may approve any additions to, or limitations on the restricted rights in the Restricted Rights Notice of subparagraph (g)(3) in a collateral agreement incorporated in and made part of the contract. (See also 1927.403(b)(5).)

(3) *Other existing works.* (i) Except for existing audiovisual and similar works pursuant to paragraph (d)(1) above, and existing computer software pursuant to paragraph (d)(2) above, no clause contained in this subpart need be included in: (A) Contracts solely for the acquisition of books, publications and similar items in the exact form in which such items exist prior to the request for purchase (i.e. the off-the-shelf purchase of such items), unless reproduction rights of such items are to be obtained; or (B) contracts resulting from formal advertising that require only existing data to be delivered unless reproduction rights for such data (other than limited-rights data) are to be obtained. If reproduction rights are to be obtained, such rights must be specifically set forth in the contract.

1927.404 Acquisition of data.

(a) *General.* (1) It is important to recognize and maintain the conceptual distinction between contract terms whose purpose is to identify the data required for delivery to, or made available to, the Government (i.e. data requirements); and those contract terms whose purpose is to define the respective rights of the Government and the contractor in such data (i.e. data rights). This section relates to data requirements; 1927.403 relates to the data rights.

(2) It is the Government's practice to determine, to the extent feasible, its data requirements in time for inclusion in solicitations. The data requirements are subject to revision during contract negotiations. Since the preparation, reformatting, maintenance and updating, cataloging, and storage of data represents an expense to both the Government and the contractor, efforts should be made to keep the contract data requirements to a minimum.

(3) To the extent feasible, all known data requirements, including the time and place for delivery and any limitations and restriction to be imposed on the contractor in the handling of the data, shall be specified in the contract.

(b) *Additional data requirements.* Recognizing that in some contracting situations, such as experimental, developmental, research, or demonstration contracts, it may not be possible or appropriate to ascertain all the data requirements at the time of contracting, the clause at 1952.227-72, Additional Data Requirements, is provided to enable the subsequent ordering by the Government of additional data first produced or specifically used in the performance of such contracts as the actual requirements become known. Data may be ordered under the clause at any time during contract performance or within a period of three years after acceptance of all items to be delivered under the contract. The contractor is to be compensated for converting the data into the prescribed form, for reproduction, and for delivery. In order to minimize storage costs for the retention of data, the contractor may be relieved of retention requirements for specified data items by the contracting officer at any time during the retention period required by the clause. Any data ordered under the clause will be subject to the Rights in Technical Data—General clause in the contract and data authorized to be withheld under that clause will not be required to be delivered under this Additional Data Requirements clause.

1927.405 Solicitation provisions and contracts clauses.

(a) *Rights in Technical Data—General.* (1) The contracting officer shall insert the clause at 952.227-71, Rights in Technical Data—General (see 1927.403(b)), in solicitations and contracts if it is contemplated that data will be produced, furnished, or acquired under the contract, unless the contract is—

(i) For the production of special works of the type set forth in 1927.403(c);

(ii) For the separate acquisition of existing works, as described in 1927.403(d);

(iii) To be performed outside the United States, its possessions, and Puerto Rico, in which case the contracting officer may prescribe different clauses (see paragraph (h) below;

(iv) For architect-engineer services or construction work, in which case the contracting officer may prescribe different clauses (see paragraph (i) below), but the clause at 1952.227-71, Rights in Technical Data—General, may be included in the contract and made applicable to data pertaining to other than architect-engineer services and construction work.

(2) If the contracting officer determines, in accordance with 1927.403(b)(2), to adopt the alternate definition of "Limited Rights Data" the clause at 1952.227-71 shall also be used.

(3) If USIA needs to obtain the delivery of limited-rights data (see 1927-403(b)(4), the contracting officer shall assure that the purposes, if any, for which limited-right data is to be disclosed outside the Government are included in the "Limited Right Notice" of subparagraph (g)(2) of the clause in accordance with 1927.403(b)(4). The contract may exclude identified items of data from delivery under subparagraph (g)(2) of the clause.

(4) If the Agency needs to obtain the delivery of restricted computer software, any greater or lesser rights regarding the use, duplication, or disclosure of restricted computer software than those set forth in the Restricted Rights Notice of subparagraph (g)(3) of the clause must be specified in the contract.

(5) If USIA wishes to limit the automatic right of the contractor to establish claim to copyright subsisting in data first produced in the performance of the contract, to scientific and technical articles based on or derived from the work performed under the contract and published in academic, technical, or professional journals, the clause provides such limitation. The subparagraph (c)(1) does, however, allow the contracting officer to give permission to the contractor to establish claim to copyright subsisting in other data first produced in the performance of the contract, either at the time of contracting or subsequently during contract performance, in accordance with 1927.403(b)(6).

(6) If USIA needs to have the right to inspect certain data at a contractor's facility, (see 1927.403(b)(10)), the clause provides for such right, including the limitations thereon. Inspection may be by the contracting officer or representative and may be made at all reasonable times up to three years after acceptance of all items to be delivered under the contract. The contract may specify data items that are not to be subject to inspection under paragraph (j) of the clause. If the contractor demonstrates to the contracting officer that there would be a possible conflict of interest if inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(b) If USIA desires to have an offeror state in response to a solicitation, to the extent feasible, whether limited-rights data or restricted computer software is likely to be used in meeting the data requirements set forth in the solicitation, the contracting officer shall insert the provision at 1952.227-70, Notification of Limited-Rights Data and Restricted Computer Software, in any solicitation containing the clause at 1952.227-71 Rights in Technical Data—General.

(c) The contracting officer shall insert the clause at 1952.227-72, Additional Data Requirements, in solicitations and contracts involving experimental, developmental, research, or demonstration work unless all the requirements for data are believed to be known at the time of contracting and specified in the contract. (See 1927.404.) This clause may also be used in other contracts when considered appropriate. If the clause at 1952.227-71, Rights in Technical Data—General, is used in the contract, the contracting officer may permit the contractor to identify data the contractor does not wish to deliver, and may specifically exclude in the contract any requirement that such data be delivered under paragraphs (g)(2) or (g)(3) of the clause or ordered for delivery under the Additional Data Requirements clause if such data is not necessary to meet the Government's requirements for data. Also, the contracting officer may alter the Additional Data Requirements clause by deleting the term "or specifically used" in subparagraph (a) thereof if delivery of such data is not necessary to meet the Government's requirements for data.

(d) The contracting officer shall insert the clause at 1952.227-73, Rights in Data—Special Works, in solicitations and contracts primarily for the production or compilation of data (other than limited-rights data or restricted computer software) for the Government's internal use, or when there is a specific to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of data. Examples of such contracts are set forth in 1927.403(c). The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released or reproduced by the contractor for other than contract performance. Contracts for the production of audiovisual works, sound recordings, etc. may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the data is acquired.

(e) The contracting officer shall insert the clause at 1952.227-74, Rights in Data—Existing Works, in solicitations and contracts exclusively for the acquisition, without modification, of existing audiovisual and similar works of the type set forth in 1927.403(d)(1). The contract may set forth limitations consistent with the purposes for which the work is being acquired. The clause at 1952.227-73, Rights in Data—Special Works shall be used if existing works are to be modified, as by editing, translation, addition of subject matter, etc.

(f) While no specific clause of this subpart need be included in contracts for the separate acquisition of existing computer software, the contracting officer shall assure that the contract contains terms to obtain sufficient rights for the Government to fulfill the need for which the software is being acquired and is otherwise consistent with 1927.403(d)(2).

(g) While no specific clause of this subpart need be included in contracts solely for the acquisition of books, publications and similar items in the exact form in which such items exists prior to the request for purchase (i.e., the off-the-shelf purchase of such items) (see 1927.403(d)(3)), if reproduction rights are to be acquired the contract shall include terms addressing such rights. (See 1927.403(d)(3).)

(h) The contracting officer may prescribe, as appropriate, clauses consistent with the policy of 1927.402 in contracts to be performed outside the United States, its possessions, and Puerto Rico.

(i) The contracting officer may prescribe, as appropriate, clauses consistent with the policy in 1927.402 in contracts for architect-engineer services and construction work.

(j) The Contracting Officer shall insert the clause at 1952.227-75, Disposition of Prints and Videotape Recordings in License Agreements which limit the period for distribution and exhibition of video-tape programs and films.

PART 1932—CONTRACT FINANCING

Subpart 1932.1—General

1932.111 Contract clauses.

(a) The contracting officer shall insert one of the clauses at 1952.232-70 and 1952.232-71 Payment Due Date, in solicitations and contracts. The contracting officer shall select the clause that is applicable to the type of supplies or services being procured.

(b) The contracting officer shall insert the clauses 1952.232-72, Interest on Overdue Payments, in solicitations and contracts.

(c) The contracting officer shall insert the clause at 1952.232-73, Invoice Requirements in solicitations and contracts for supplies or services which require the submission of invoices.

(d) The contracting officer shall insert the clause at 1952.232-74, Method of Payment, in all solicitations and

contracts, except those which are subject to simplified small purchase procedures.

(40 U.S.C. 486(c))

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 1942—CONTRACT ADMINISTRATION

Subpart 1942.2—Assignment of Contract Administration

1942.202-70 Authorized Representative of the Contracting Officer (AR/CO).

A Contracting Officer may designate any properly qualified Government employee to act as the Authorized Representative of a Contracting Officer (AR/CO). Such designation shall apply to a single contract, must be in writing, and shall define the scope and limitations of the Authorized Representative's authority. The instrument designating an AR/Co shall not contain authority to sign or agree to any contract or major modification to a contract. Contractual commitments shall be made only by a duly certified contracting officer. The Contracting Officer shall insert the clause at 1952.242-70, Authorized Representative of the Contracting Officer, in solicitations and contracts when an individual is to be selected and designated by the contracting officer to perform administration of a given contract(s).

SUBCHAPTER H—CLAUSES AND FORMS

PART 1952—SOLICITATION PROVISIONS AND CONTRACTS CLAUSES

Sec.
1952.000 Scope of Part.

Subpart 1952.1—Instructions For Using Provisions and Clauses

1952.102-1 Incorporation by reference.
1952.104 Procedures for modifying and completing provisions and clauses.

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1952.210-70 Brand name or equal (Aug. 84).
1952.212-70 Notice of delay (Aug. 84).
1952.222-70 Davis-Bacon Act (Aug. 84).
1952.222-71 Contract Work Hours and Safety Standards Act overtime compensation (40 U.S.C. 327-333) (Aug. 84).
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1952.222-73 Payroll and basic records (Aug. 84).
1952.222-74 Compliance with Copeland Act requirement (Aug. 84).
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1952.222-76 Subcontracts (Aug. 84).
1952.222-77 Contract termination; debarment (Aug. 84).
1952.222-78 Disputes concerning labor standards (Aug. 84).
1952.222-79 Compliance with Davis-Bacon and related act requiements (Aug. 84).
1952.222-80 Certification of eligibility (Aug. 84).
1952.222-81 Service Contract Act of 1965 (Aug. 84).
1952.222-82 Contract Work Hours and Safety Standard Act-overtime compensation (40 U.S.C. 327-333)-(Non-construction only).
1952.222-83 Payrolls and basic records (Non-construction only).
1952.227-70 Notification of limited rights data and restricted computer software (Aug. 84).
1952.227-71 Rights in technical data—General (Aug. 84).
1952.227-72 Additional data requirements (Aug. 84).
1952.227-73 Rights in data-special works (Aug. 84).
1952.227-74 Rights in data—existing works (Aug. 84).
1952.227-75 Disposition of prints and videotape recordings (Aug. 84).
1952.232-70 Payment due date-F.O.B. destination or F.A.S. vessel (Aug. 84).
1952.232-71 Payment due date-F.O.B. origin (Aug. 84).
1952.232-72 Interest on overdue payments (Aug. 84).
1952.232-73 Invoice requirements (Aug. 84).
1952.232-74 Method of payment (Aug. 84).
1952.242-70 Authorized Representative of the Contracting Officer (Aug. 84).

Authority: 40 U.S.C. 486(c).

1952.000 Scope of Part.

This part implements and supplements FAR Part 52 which sets forth solicitation provisions and contract clauses for use in the acquisition of personal property and nonpersonal services (including construction).

Subpart 1952.1—Instructions for using provisions and clauses

1952.102-1 Incorporation by reference.

IAAR provisions and clauses that are familiar to both USIA personnel and Agency contractors may be incorporated by reference, except when a provision or clause requires completion by the offeror or prospective contractor or contains an Agency authorized deviation.

1952.104 Procedures for modifying and completing provisions and clauses.

IAAR provisions and clauses shall not be modified (see FAR 52.101(a)) unless authorized by the Director, Office of Contracts, and when so authorized, contracting officers must comply with the procedures in FAR 52.104.

Subpart 1952.2—Texts of Provisions and Clauses

1952.200 Scope of subpart.

This subpart sets forth the full text of all IAAR provisions and clauses.

1952.210-70 Brand name or equal (Aug. 84).

As prescribed in 1910.011 insert the following provision when a "brand name or equal" purchase description is used in the solicitation:

Brand Name or Equal (Aug. 84)

(As used in this clause the term "brand name" includes identification of products by make and model.)

A. If items called for by this solicitation have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Solicitations offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the offer and are determined by the Government to meet fully the salient characteristics requirements listed in the solicitation.

B. Unless the offeror clearly indicates in the offer that an "equal" product is being offered, the offer shall be considered as offering a brand name product referenced in the solicitation.

C. 1. If the offeror proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the solicitation, or such product shall be otherwise clearly identified in the offer. The evaluation of offers and the determination as to equality of the product offered shall be the responsibility of the government and will be based on information furnished by the offeror or identified in the offer as well as other information reasonably available to the contracting activity. CAUTION TO OFFERORS. The contracting activity is not responsible for locating or securing any information which is not identified in the offer and reasonably available to the contracting activity. Accordingly, to insure that sufficient information is available, the offeror must furnish as a part of the offer all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting activity to (i) determine whether the product offered meets the salient characteristics requirement of the solicitation, and (ii) establish exactly what the offeror proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the contracting activity.

2. If the offeror proposes to modify a product so as to make it conform to the requirements of the solicitation, it shall (i)

include in the offer a clear description of such proposed modifications and (ii) clearly mark any descriptive material to show the proposed modifications.

3. Modifications proposed after date for receipt of offers to make a product conform to a brand name product referenced in the solicitation will not be considered.

(End of Clause)

1952.212-70 Notice of delays (Aug. 84)

As prescribed at 1912.70, insert the following clause in all contracts:

Notice of Delay (Aug. 1984)

If the Contractor becomes unable to complete the contract work at the time(s) specified because of technical difficulties, notwithstanding the exercise of good faith and diligent efforts in the performance of the work called for hereunder, the Contrator shall give the Contracting Officer written notice of the anticipated delay and the reasons therefor. Such notice and reasons shall be delivered promptly after the condition creating the anticipated delay becomes known to the Contractor but in no event less than forty-five (45) days before the completion date specified in this contract, unless otherwise directed by the Contracting Officer. When notice is so required, the Contracting Officer may extend the time specified in the Schedule for such period as deemed advisable.

(End of Clause)

1952.222-70 Davis-Bacon Act (40 U.S.C. 276a-276a-7) (Aug. 84).

As prescribed in § 1922.403(a) the contracting officer shall insert the following clauses:

Davis-Bacon Act (40 U.S.C. 276a-276a-7) (Aug. 84)

(a) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled "Apprentices and Trainees." Laborers or mechanics performing work in more that one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator of the Wage and Hour Division, or an authorized representative, will approve, modify or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator of the Wage and Hour Division, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (b)(2) or (b)(3) of this clause, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit or an hourly cash equivalent thereof.

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. *Provided,* That the Secretary of Labor has found, upon written request of the Contractor, that applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(e) Paragraphs (a) through (d) of the clause shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act, or (2) a subcontract also subject to the Davis-Bacon Act under such prime contract.

(End of Clause)

1952.222-71 Contract Work Hours and Safety Standards Act overtime compensation (40 U.S.C. 327-333) (Aug. 84.).

As prescribed at 1022.403(a), the contracting officer shall insert the following clause:

Contract Work Hours and Safety Standards Act Overtime Compensation (40 U.S.C. 327-333) (Aug. 84)

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 8 hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of forty hours in such workweek, whichever, is greater.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with

respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of $10 for each calendar day for which such individual was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer shall upon his/her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (d) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of Clause)

1952.222-72 Apprentices and trainees (Aug. 84).

As prescribed in 1922.403(a), the contracting officer shall insert the following clause:

Apprentices and Trainees (Aug. 84)

(a) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination of the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(End of Clause)

1952.222-73 Payrolls and basic records (Aug. 84).

As prescribed in 1922.403(a), the contracting officer shall insert the following clause:

Payrolls and Basic Records (Aug. 84)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under paragraph (d) of the clause entitled "Davis-Bacon Act" that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprenctices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls

to the applicant, sponsor, or owner, as the case may be, for transmission to the Contracting Officer. The payrolls submitted shall be set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. The information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents, Government Printing Office. The Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause entitled "Payrolls and Basic Records" and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (b)(2) of this clause.

(4) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of Title 18 and section 231 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or the Department of Labor or their authorized representatives. The Contractor and subcontractors shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of Clause)

1952.222-74 Compliance with Copeland Act requirement (Aug. 84).

As prescribed in 1922.403(a), the contracting officer shall insert the following clause:

Compliance With Copeland Act Requirement (Aug. 84)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(End of Clause)

1952.222-75 Withholding (Aug. 84).

As prescribed in 1922.222-403(a), the contracting officer shall insert the following clause:

Withholding (Aug. 84)

The Contracting Officer shall upon his/her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Prime Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of Clause)

1952.222-76 Subcontracts (Aug. 84).

As prescribed in 1922.403(a), the contracting officer shall insert the following clause:

Subcontracts (Aug. 84)

The Contractor or subcontractor shall insert in any subcontracts the clauses entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act-Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," Compliance with Copeland Act Requirements," "Withholding," "Subcontracts," "Contract Termination-Debarment," "Disputes Concerning Labor Standards," "Compliance With Davis-Bacon and Related Act Requirements," and "Certification of Eligibility," and such other clauses as the Contracting Officer may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited above.

(End of Clause)

1952.222-77 Contract termination; debarment (Aug. 84).

As prescribed in 1922.403(a) the contracting officer shall insert the following clause:

Contract Termination; Debarment (Aug. 84)

A breach of the contract clauses entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act-Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance with Copeland Act Requirements," "Subcontracts," "Compliance With Davis-Bacon and Related Act Requirements," and "Certification of Eligibility," may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(End of Clause)

1952.222-78 Disputes concerning labor standards (Aug. 84).

As prescribed in 1922.403(a), the contracting officer shall insert the following clause:

Disputes Concerning Labor Standards (Aug. 84)

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of Clause)

1952.222-79 Compliance with Davis-Bacon and Related Act requirements (Aug. 84).

As prescribed in 1922.403(a), the contracting officer shall insert the following clauses:

Compliance with Davis-Bacon and Related Act Requirements (Aug. 84)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(End of Clause)

1952.222-80 Certification of eligibility (Aug. 84).

As prescribed in 1922.403(a), the contracting officer shall insert the following clause:

Certification of Eligibility (Aug. 84).

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person of firm who has a interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(End of Clause)

1952.222-81 Service Contract Act of 1965 (Aug. 84).

As prescribed in 1922.1006 insert the following clause:

Service Contract Act of 1965, as Amended (Aug. 84)

(a) This contract is subject to the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (29 CFR Part 4).

(b)(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section. (The information collection requirements contained in the following paragraphs of this section have been approved by the Office of Management and Budget under OMB control number 1215-0150.)

(ii) Such conforming procedure shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative of the employees themselves, shall be submitted by the contractor to the contracting officer no latter than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division. Employment Standards Administration. U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the contracting officer who shall promptly notify the contractor of the action taken. Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or i any other case where a contractor succeeds a contract under which th eclassification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the contractor shall advise the contracting officer of the action taken but the other procedures in paragraph (b)(2)(ii) of this section need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined pursuant to paragraphs (b)(2)(i) and (ii) of this section shall be paid to all employees performing in the classification from the first day which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employes commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with paragraphs (b)(2) (i) through (v) of this section, the Wage and Hour Division shall make a final determination of conformed classification, wage rate and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determination to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined comformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subpart D of 29 CFR Part 4, and not otherwise.

(d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe

benefits provided for in such collective bargaining agreements, to which such employee under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 4.1b(b) of 29 CFR Part 4 apply or unless the Secretary of Labor or his authorized representative finds, after hearing as provided in 4.10 of 29 CFR Part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 4.11 of 29 CFR Part 4, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen. 401 (1973). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with safety and health standards applied under 29 CFR Part 1925.

(g)(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each employee subject to the Act and shall make them available for authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. (Sections 4.6(g)(1) (i) through (iv) approved by the Office of Management and Budget under OMB control number 1215-0017 and section 4.6(g)(1) (v) and (vi) approved under OMB control number 1215-0150.):

(i) Name and address and social security number of each employee.

(ii) The correction work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(iii) The number of daily and weekly hours so worked by each employee.

(iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(v) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates and fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (b)(2)(ii) of this section shall be deemed to be such a list.

(vi) Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to 4.6(l)(2).

(2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(h) The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay under paid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts subject to the Act. The term "contractor" as used in these clauses in any subcontract, shall deemed to refer to the subcontractor, except in the term "Government prime contractor."

(k)(1) As used in these clauses, the term "service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent provision of those regulations. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following statement is included in contracts pursuant to section 2(a)(5) of the Act and is for informational purposes only:

The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class	Monetary wage-fringe benefits

(l)(1) if wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government

prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (44.173 of Regulations, 29 CFR Part 40, the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(m) Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations 29 CFR Part 4.

(n)(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annual, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(q) An employee engaged in an occupation in which he or she customarily and regularly receives more than $30 a month in tips may have the amount of tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531: Provided, however, That the amount of such credit may not exceed $1.24 per hour beginning January 1, 1980, and $1.34 per hour after December 31, 1980. To utilize this proviso:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; (approved by the Office of Management and Budget under OMB control number 1215-0017);

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 4, 6 and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of Clause)

1952.222-82 Contract Work Hours and Safety Standards Act—overtime compensation (40 U.S.C. 327-333) (Non-construction only).

As prescribed at 1922.305 insert the following clause:

Contract Work Hours and Safety Standards Act Overtime Compensation (40 U.S.C. 327-333)

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 8 hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of forty hours in such workweek, whichever, is greater.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in case of

work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of $10 for each calendar day for which such individual was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer shall upon his/her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) and this clause.

(d) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (d) of this clause and also a clause requiring the subcontractor to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provision set forth in paragraphs (a) through (d) of this clause.

(End of Clause)

1952.222-83 Payrolls and basic records (Non-construction only).

As prescribed in 1922.305 insert following clause:

Payrolls and Basic Records (Aug. 84)

(a) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the contract work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(b) The records to be maintained under paragraph (a) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, and transcription by the Contracting Officer or the Department of Labor or their authorized representatives. The Contractor and subcontractors will permit such representatives to interview employees during working hours on the job.

(End of Clause)

1952.222-70 Notification of limited rights data and restricted computer software (Aug. 84).

As prescribed in 1922.405(b) insert following provision in solicitation that include the clause at 1952.227-71, Rights in Technical Data—General:

Notification of Limited Rights Data and Restricted Computer Software (Aug. 84)

(a) This solicitation sets forth the Government's known requirements for data. Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Technical Data—General clause paragraph (g)(1) that is to be included in this contract. Under this clause a contractor may withhold from delivery data that qualifies as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. This clause also may be used with paragraph (g)(2) and/or paragraph (g)(3) to obtain delivery of limited rights data or restricted computer software with limited rights or restricted rights if such delivery is determined to be necessary. In addition, use of paragraph (j) provides the Government with the right to inspect such data at the contractor's facility.

(b) As an aid in determining the Government's need to include one or more of the above paragraphs of the clause in the contract, the offeror's to this solicitation shall, to the extent feasible, either state that none of the data qualifies as limited data or restricted computer software, or identify which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

End of Provision

1952.227-71 Rights in technical data—general (Aug. 84)

As prescribed in 1927.405(a)(1) insert the following clause:

Rights in Technical Data—General (Aug. 84)

(a) *Definitions.* "Commercial Computer Software", as used in this clause, means computer software which is used regularly for other than Government purposes and is sold, licensed or leased in significant quantities to the general public at established market or catalog prices.

"Computer", as used in this clause, means a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations: for example, a device that operates on discrete data by performing arithmetic and logic processes on the data, or a device that operates on analog data by performing physical processes on the data.

"Computer Data Base", as used in this clause, means a collection of data in a form capable of being processed and operated on by a computer.

"Computer Program", as used in this clause, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

"Computer Software", as used in this clause, means computer programs and computer data bases.

"Computer Software Documentation", as used in this clause, means technical data, including computer listings and printouts, in human-readable form which (1) documents the design or details of computer software, (2) explains the capabilities of the software, or (3) provides operating instructions for using the software to obtain desired results from a computer.

"Limited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (1) released or disclosed in whole or in part outside the Government, (2) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (3) used by a party other than the Government, except as may otherwise be provided in the contract.

"Limited Rights Data", as used in this clause, means unpublished technical data pertaining to items, components or processes developed at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights. The word *unpublished,* as applied to technical data and computer software documentation, means that which has not been released to the public nor been furnished to others without restriction on further use or disclosure. For the purpose of this definition, delivery of limited rights techncial data to or for the Government under a contract does not, in itself, constitute release to the public.

"Restricted Rights", as used in this clause, means rights that apply only to computer software, and include, as a minimum, the right to—

(1) Use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(2) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(3) Copy computer programs for safekeeping (archives) or backup purposes; and

(4) Modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (1)–(4) above that are listed or described in this contract or described in a license or agreement made a part of this contract.

"Technical Data", as used in this clause, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents, or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

"Unlimited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Allocation of rights.*

(1) Except as provided in paragraph (c) below regarding copyright, the Government shall have unlimited rights in:

(i) technical data and computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a Government contract;

(iii) computer data bases, prepared under a Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

(iv) technical data necessary to enable manufacture of end-items, components, and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense (but see subdivision (b)(2)(ii) below);

(v) technical data or computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting, corrections or changes to Government-furnished data or computer software;

(vi) data pertaining to end-items components or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(vii) manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(viii) technical data or computer software which is in the public domain, or has been or is normally released or disclosed by the Contractor or subcontractor without restriction on further disclosure.

(2) The Contractor shall have the right to—

(i) Protect from unauthorized disclosure and use that data which is limited rights data or restricted computer software to the extent provided in paragraph (g) below;

(ii) Substantiate use of, add or correct limited rights or restricted rights notices and to take other appropriate action, in accordance with paragraphs (e) and (f) below;

(iii) Establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided in subparagraph (c)(1) below.

(c) *Copyright:*

(1) *Data first produced in the performance of this contract.* Except as otherwise specifically provided in this contract, the Contractor may, with the prior written approval of the Contracting Officer, establish claim to copyright subsisting in any data first produced in the perfomance of this contract. When claim to copyright in made, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when such data is delivered to the Government, and include that notice as well as acknowledgement of Government sponsorship on the data when published or deposited in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (1) above; *provided,* however, that if such data is computer software the Government shall acquire a copyright license as set forth in subparagraph (g)(3) below if included in this contract or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.

(3) The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproductions of the data.

(d) *Release, publication and use of data.*

(1) All data first produced in the performance of this contract shall be the sole property of the Government. The Contractor agrees not to assert any rights at common law or equity in such data. Except for his or her own internal use, the Contractor shall not publish or reproduce such data in whole or in part, or in any manner or form, nor authorize others so to do, without the prior written consent of the Government or until such time as the Government may have released such data to the Public.

(2) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contains restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

(e) *Unauthorized marking of data.* (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract is marked with the notices specified in subparagraphs (g)(2) or (g)(3) below and use of such is not authorized by this clause, the Contracting Officer may either return the data to the Contractor, or cancel or ignore the markings. However, markings will not be cancelled or ignored unless—

(i) The Contracting Officer makes written inquiry to the contractor concerning the propriety of the markings, providing the Contractor 30 days to respond; and

(ii) The Contraor fails to respond within the 30 day period (or longer time approved by the Contracting Officer for good cause shown), or the Contractor's response fails to substantiate the propriety of the markings.

(2) The Contracting Officer shall consider the Contractor's reponse, if any, and determine whether the markings shall be concelled or ignored. The Contracting Officer shall furnish written notice to the Contractor of the determination, which shall be a final decision under the Contract Disputes Act.

(f) *Omitted or incorrect markings.*

(1) Data delivered to the Government without any notice authorized by paragraph (g) below, or without a copyright notice, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the Contractor's

expense, and the Contracting Officer may agree to do so if the Contractor—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also (i) permit correction at the Contractor's expense, of incorrect notices if the Contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or (ii) correct any incorrect notices.

(g) *Protection of limited rights data and restricted computer software.*

(1) When technical data other than that listed in subdivision (b)(1), above is specified to be delivered under this contract and qualifies as either limited rights data or restricted computer software the Contractor, if it desires to continue protection of such data, shall withhold such data and not furnish it to the Government under the Contract. As a condition to this withholding the Contractor shall identify the data being withheld and furnish form, fit, and function data in lieu thereof. Limited rights data that is formatted as a computer data base for delivery to the Government is to be treated as limited rights data and not restricted computer software.

(g)(2) Notwithstanding subparagraph (g)(1) above, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be withholdable. If delivery of such data is so required, the Contractor may affix the following "Limited Rights Notice" to the data and the Government will thereafter treat the data, subject to the provisions of paragraph (e) and (f) above, in accordance with such Notice:

Limited Rights Notice (Aug. 84)

(a) This data is submitted with limited rights under Government contract No. (subcontract, if appropriate). It may be reproduced and used by the Government with the express limitation that it will not, without permission of the Contractor, be used for purposes of manufacture not disclosed outside the Government; except that the Government may, if necessary, disclose this data outside the Government for the following purposes, if applicable, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

[Note: The Contracting Officer shall select only those purposes from (A) through (E) which are appropriate and necessary to the specific procurement.]

(A) Use by support service contractors.

(B) Evaluation by nongovernment evaluators.

(C) Use by other contractors participating in the Government's program of which this contract is a part, for information and use in connection with the work performed under their contracts.

(D) Emergency repair or overhaul work.

(E) Release to a foreign government, as the interests of the United States may require, for information or evaluation, or for emergency repair or overhaul work by such Government.

(b) This Notice shall be marked on any reproduction of this data, in whole or in part.

(End of Notice)

(g)(3) Notwithstanding subparagraph (g)(1) above, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld. If delivery of such computer software is so required, the Contractor may affix the following "Restricted Rights Notice" to the computer software, subject to paragraphs (e) and (f) above, in accordance with the Notices:

Restricted Rights Notice (May 84)

(a) This computer software is submitted with restricted rights under Government contract No. ——— (and subcontract ———, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided below or as otherwise expressly stated in the contract.

(b) This computer software may be—

(1) Used or copied for use in or with the computer for which it was acquired, including use at any Government installation to which such computer may be transferred;

(2) Used with a backup computer if the computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, combined or adapted portions of the derivative software incorporating restricted computer software shall be subject to the same restricted rights; and

(5) Disclosed and reproduced for use by support contractors or their subcontractors in accordance with subparagraphs (1) and (4) above, provided the Government makes such disclosure subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software is published copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (b) above.

(d) Any other rights or limitations regarding the use, duplication or disclosure of this computer software are to be expressly stated in the contract.

(e) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of Notice)

Where it is impractical to include the above Notice on restricted computer software, the following short-form Notice may be used in lieu thereof:

Restricted Rights Notice (Short Form) (Date)

Use, reproduction, or disclosure is subject to restrictions set forth in contract No. (and subcontract ——— if appropriate) with ——— (name of Contractor and subcontractor).

(End of Notice)

(h) *Subcontracting.* The Contractor has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government such rights, the Contractor shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with subcontract award without further authorization.

(i) *Relationship to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other rights otherwise granted to the Government.

(j) *Inspection of data at the Contractor's facility*

The Contractor agrees, except as may be otherwise specified in this contract for specific data items listed as not subject to this paragraph, that the Contracting Officer or an authorized representative may, at all reasonable times up to 3 years after acceptance of all items to be delivered under this contract, inspect at the Contractor's facility any data withheld under subparagraph (g)(1) of this clause, or any data specifically used in the performance of this contract, for the purpose of evaluating work performance or verifying the Contractor's assertion pertaining to the limited rights or restricted rights status of the data. Where the Contractor whose data is to be inspected demonstrates to the Contracting Officer that there would be a possible conflict of interest if the inspection were made by a particular representative, the Contracting Officer shall designate an alternative inspector.

(End of Clause)

1952.227-72 Additional data requirements (Aug. 84).

As prescribed in 1927.405(c), insert the following clause in solicitations and contracts involving experimental, developmental or research work, except those awards using small purchase procedures. This clause may be used in solicitations and contracts for other types of work after consultation with legal counsel:

Additional Data Requirements (Aug. 84)

(a) In addition to the data (as defined in the Rights in Technical Data—General clause included in this contract) specified elsewhere in this contract to be delivered, the Contracting Officer may at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under this contract, order any data first produced or specifically used in the performance of this contract.

(b) The Rights in Technical Data—General clause included in this contract is applicable to all data ordered under this Additional Data Requirements clause. Nothing contained in this clause shall require the Contractor to

deliver any data the withholding of which is authorized by the Rights in Technical Data—General clause of this contract, or data which is specifically identified in this contract as not subject to this clause.

(c) When data is to be delivered under this clause, the Contractor will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.

(d) The Contracting Officer may release the Contractor from the requirements of this clause for specifically identified data items at any time during the 3-year period set forth in (a) above.

(End of Clause)

1952.227-73 Rights in data-special works (Aug. 84)

As prescribed in 1927.405(d) insert the following clause:

Rights in Data—Special Works (Aug. 84)

(a) *Definitions.*

"Data," as used in this clause, means recorded information regardless of form or the medium on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analyses or financial, business, and management information required for contract administration purposes.

"Unlimited rights", as used in this clause, means rights of the Government to use disclose, reproduce, prepared derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Allocation of rights* (1) The Government shall have—

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) below for copyright.

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(1) below.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) below.

(2) The Contractor shall have, to the extent permission is granted in accordance with subparagraph (c)(1) below, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright.* (1) *Data first produced in the performance of this contract.* (i) The Contractor agrees not to assert, establish, or authorize other to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without the prior written permission of the Contracting Officer. When claim to copyright is made, the Contractor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 to such data when delivered to the Government, and include that notice as well as acknowledgement of Government sponsorship on the data when published or deposited in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (i) above, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, of such copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (1) above.

(d) *Release and use restriction.* Except as otherwise specifically provided for in this contract, the Contractor shall not use for purposes other than the performance of this contract, nor release, reproduce, distribute or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of Clause)

1952.227-74 Rights in data—existing works (Aug. 84).

As prescribed in 1927.405(e) insert the following clause:

Rights in Data—Existing Works (Aug. 84)

(a) Except as otherwise provided in this contract, the Contractor grants to the Government, and other acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works distribute to the public and perform publicly and display publicly, by or on behalf of the Government, for all the material or subject matter called for under this contract or for which this clause is specifically made applicable.

(b) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of Clause)

1952.227-75 Disposition of prints and videotape recordings (Aug. 84).

As prescribed in 1927.405(j) insert the following clause in License Agreements:

Disposition of Prints and Videotape Recordings (Aug. 1984)

If the Agency elects to discontinue distribution and exhibition hereunder, or upon expiration of the term of this License Agreement, the Agency will destroy all prints and erase all videotape recordings of the Film. A certificate(s) attesting to such destruction and/or erasure will be furnished the Licensor upon its written request.

(End of Clause)

1952.232-70 Payment due date—F.O.B. Destination or F.A.S. Vessel (Aug. 84).

As prescribed in 1932.111(a), insert a clause substantially the same as the following in contracts for supplies when delivery is on an F.O.B. Destination or F.A.S. Vessel basis or in service contracts for nonrecurring work payable upon completion of performance. Contracts providing advance payments or contracts for utilities covered by tariff are excluded:

Payment Due Date (Aug. 84)

A. Payments under this contract will be due on the ——* calendar day after the later of:

(1) The date of actual receipt of a proper invoice in the office designated to receive the invoice, or

(2) The date the supplies or services are accepted by the Government.

B. For the purpose of determining the due date for payment and for no other purpose, acceptance will be deemed to occur on the ——** calendar day after the date of delivery of the supplies or completion of service performance in accordance with the terms of the contract.

C. If the supplies or services are rejected for failure to conform to the technical requirements of the contract, such as damage in transit or otherwise, the provisions in paragraph (b) of this clause will apply to the new delivery of replacement supplies or satisfactory completion of the services.

D. The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause)

*The contracting officer should insert an appropriate number (e.g., 30 days, unless some other number of days is necessary).

**The contracting officer should insert a number (e.g., 15 days, unless some other number of days is necessary).

1952.232-71 Payment due date—F.O.B. Origin (Aug. 84).

As prescribed in 1932.111(a), insert a clause substantially the same as the following in contracts for supplies when delivery is on an F.O.B. Origin basis, with inspection and acceptance at source and proof of shipment (e.g., a GBL) is to be required to be furnished with the invoice and in nonpersonal service contracts when the contractor's invoice covers services performed on a recurring basis with periodic billings:

Payment Due Date (Aug. 84)

A. Payments under this contract will be due on the ——* calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice. The invoice must include proper documentation that the supplies have been delivered to and accepted for shipment by an approved carrier; or in the case of services, that the services have been rendered and accepted.

(B) However, when the contract specifies that inspection and acceptance will take place at the ultimate destination point, payment for items shipped F.O.B. Origin will not constitute final acceptance.

C. The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of Clause).

*The contracting officer should insert an appropriate number (e.g., 30 days, unless some other number of days is necessary).

1952.232-72 Interest on overdue payments (Aug. 84).

As prescribed in 1932.111(b), insert the following clause in solicitations and contracts for supplies and services, including construction, and in leases of real property.

Interest on Overdue Payments (Aug. 84)

(a) The Prompt Payment Act, Pub. L. 97-177 (96 Stat. 85; 31 U.S.C. 1801) is applicable to payments under this contract, except contracts providing advance payments or contracts for utilities covered by tariff, and requires the payment to contractors of interests on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

(End of Clause)

1952.232-73 Invoice Requirements (Aug. 84).

As prescribed in 1932.111(c), insert the following clause in solicitations and contract for supplies or services which require the submission of invoices:

Invoice Requirements (Aug. 84)

Invoices shall be submitted in an original and one (1) copy of the Government office designated in this contract or on the delivery order to receive invoices. To constitute a proper invoice, the invoice must include the following information and/or attached documentation:

(1) Name of the business concern and invoice date.

(2) Contract number, or other authorization for delivery of property or services.

(3) Description, price, and quantity of property and services actually delivered or rendered.

(4) Shipping and payment terms, and such other substantiating documentation or information as required by the contract.

(5) Name (where practicable), title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

(End of Clause)

1952.232-74 Method of payment (Aug. 84).

As prescribed in 1932.111(d), insert the following clause in solicitations and contracts:

Method of Payment (Aug. 84)

A. Payments under this contract will be made either by check or by wire transfer through the Treasury Financial Communications System at the option of the Government.

B. The Contractor shall forward the following information in writing to the Contracting Officer not later than 7 days after receipt of notice of awards:

(1) Full name (where practicable), title, phone number, and complete mailing address of responsible official(s) (i) to whom check payments are to be sent, and (ii) who may be contracted concerning the bank account information requested below.

(2) The following bank account information required to accomplish wire transfers:

(i) Name, address, and telegraphic abbreviation of the receiving financial institution.

(ii) Receiving financial institution's 9-digit American Bankers Association (ABA) identifying number for routing transfer of funds. (Provide this number only if the receiving financial institution has access to the Federal Reserve Communications System.)

(iii) Recipient's name and account number at the receiving financial institution to be credited with the funds.

(iv) If the receiving financial institution does not have access to the Federal Reserve Communications System, provide the name of the correspondent financial institution through which the receiving financial institution receives electronic funds transfer messages. If a correspondent financial institution is specified, also provide:

(a) Address and telegraphic abbreviation of the correspondent financial institution.

(b) The correspondent financial institution's 9-digit ABA identifying number for routing transfer of funds.

C. Any changes to the information furnished under paragraph B. of this clause shall be furnished to the Contracting Officer in writing at least 30 days before the effective date of the change. It is the Contractor's responsibility to furnish these changes promptly to avoid payments to erroneous addresses or bank accounts.

D. The document furnishing the information required in paragraph B. and C. must be dated and contain the signature, title, and telephone number of the Contractor official authorized to provide it, as well as the Contractor's name and contract number.

(End of Clause)

1952.242-70 Authorized Representative of the Contracting Officer (Aug. 84).

As prescribed in 1942.202-70 insert the following clause in solicitations and contracts:

Authorized Representative of the Contracting Officer (Aug. 84)

The Contracting Officer will appoint by a letter an Authorized Representative of the Contracting Officer (AR/CO) who will be given the responsibility of ensuring that the work conforms to the requirements of the contract and such other responsibilities as are specifically identified in the letter of authorization. The AR/CO *shall not* have the authority to make changes in the scope or terms and conditions of the contract; *only* the Contracting Officer has such authority. THE RESULTANT CONTRACTOR IS HEREBY FOREWARNED THAT IT MAY BE HELD FULLY RESPONSIBLE FOR ANY CHANGES NOT AUTHORIZED IN ADVANCE, IN WRITING, BY THE CONTRACTING OFFICER, AND MAY BE DENIED COMPENSATION FOR ANY ADDITIONAL WORK PERFORMED WHICH IS NOT SO AUTHORIZED.

(End of Clause)

PART 1953—FORMS

Subpart 1953.3—Illustrations of Forms

1953.300 Scope of Subpart.
1953.370 USIA forms.

Authority: 40 U.S.C. 486(c).

Subpart 1953.3—Illustrations of Forms

1953.300 Scope of subpart.

This subpart contains illustrations of some forms referenced in this IAAR.

1953.370 USIA forms.

This section contains illustrations of USIA forms references in this IAAR.

Note.—IAAR forms are not published in the Federal Register of in the Code of Federal Regulations. Forms may be obtained by writing: Office of Contracts, United States Information Agency, Washington, DC 20547. For the convenience of the user, a list containing section numbers, form numbers and form titles appears below:

Sec.

1953.370–21 USIA Form IA–21, Abstract of Quotations.

1953.370–44 USIA Form IA–44, Requisition-Purchase Order-Invoice for Professional Services.

Philip R. Rogers,

Director, Office of Contracts.

[FR Doc. 84–25611 Filed 9–19–84; 8:45 am]

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Part V

Environmental Protection Agency

40 CFR Parts 406, 407, 408, 409, 411, 422, 424, 426, 430, 431, 432, and 439

Best Conventional Pollutant Control Technology, Effluent Limitation Guidelines; Notice of Data Availability Concerning Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 406, 407, 408, 409, 411, 422, 424, 426, 430, 431, 432, and 439

[FRL-2667-2]

Best Conventional Pollutant Control Technology Effluent Limitation Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability concerning proposed rules.

SUMMARY: The purpose of this notice is to: (1) Announce possible changes to the Best Conventional Pollutant Control Technology (BCT) effluent limitations guidelines published October 29, 1982 (47 FR 49176): (2) make available new POTW data and analyses EPA is considering using in the final BCT methodology; and (3) present the results of the possible revisions to the two BCT tests. The Agency now expects to use new data concerning the cost of publicly owned treatment works (POTWs) in the promulgation of the final methodology, and to make other changes in response to public comments on the 1982 proposal. Consequently, this notice provides an additional opportunity for public comment.

DATES: Comments must be submitted on or before November 19, 1984.

ADDRESSES: Comments should be mailed or delivered to Ms. Debra Maness, Attn: Comments on BCT Notice of Availability, U.S. Environmental Protection Agency (WH-586), 401 M Street, SW., Washington, D.C. 20460. A technical report supporting this notice may be obtained by calling or writing Ms. Dena Caldwell, U.S. Environmental Protection Agency (WH-586), 401 M Street, SW., Washinton, D.C. 20460, (202) 382-5397. Full documentation is available for public inspection at U.S. EPA Headquarters, 401 M Street, SW., Rm 2404 (Rear), Public Information Reference Unit.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Maness, Office of Analysis and Evaluation, (202) 382-5385.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Introduction

Best Conventional Pollutant Control Technology (BCT) effluent limitations are not an additional effluent limitation for industrial dischargers, but rather replace Best Available Technology Economically Achievable (BAT) effluent limitations for the control of conventional pollutants. Effluent limitations representing BCT may not be less stringent than Best Practical Control Technology Currently Available (BPT). Conventional pollutants can be controlled to more stringent levels than BCT for dischargers in areas where water quality concerns require more control than afforded by the technology-based BCT requirements.

B. History

1. Previous Proposal

On October 29, 1982, EPA published its proposed methodology to determine the reasonableness of BCT effluent limitations (47 FR 49176).

At the same time, EPA proposed BCT effluent limitations for the following industry categories: Dairy Products Processing, Grain Mills, Canned and Preserved Fruits and Vegetables Processing, Canned and Preserved Seafoods Processing, Sugar Processing, Cement Manufacturing, Feedlots, Inorganic Chemicals Manufacturing, Phosphate Manufacturing, Ferroalloy Manufacturing, Glass Manufacturing, Timber Products, Pulp, Paper and Paperboard, Builders' Paper and Board Mills, Meat Products, Metal Finishing, and Ore Mining and Dressing.

2. Previous Notice of Availability

On June 2, 1983 EPA indicated its intent to use new cost information on publicly owned treatment works (POTWs) for the final methodology (48 FR 24742). On September 16, 1983, EPA withdrew the notice pending a reevaluation of whether to use the information in this rulemaking (48 FR 44091). At the same time, EPA also informed the public that if the Agency determined that the data used in the October 1982 proposal were valid, EPA would promulgate the BCT methodology without reopening the comment period.

C. Purpose of This Notice

This notice serves three purposes.

First, it alerts the public to possible changes to the BCT methodology in response to substantial comment on the October 1982 proposal. EPA is considering five significant changes to the BCT methodology. These changes affect the stringency of BCT limitations that would be promulgated. Section II details these changes. The Agency believes that the changes in methodology produce results that are consistent with the statute and with Congressional intent.

While the specific effluent limitations discussed in this notice pertain to the secondary industries, the Pulp and Paper industry, and Pharmaceutical Manufacturing industry, all direct dischargers for which BCT limitations have not already been promulgated should comment on this notice. As the Agency has indicated in prior notices of the BCT methodology, this is the opportunity to comment on the methodology itself. The only issue in future rulemakings or permitting proceedings is the application of the methodology to the specific industry.

Second, this notice makes available new POTW data and analyses EPA plans to use in the final BCT methodology. As a result of the analysis and evaluation performed on the two sets of POTW cost data (the data used n the 1982 proposal and the data noticed for comment in June 1983), EPA determined that neither set of data was appropriate for this rulemaking. Subsequently, EPA has been working to develop new POTW cost data. In addition, in order to base the BCT methodology on annual average effluent levels instead of 30-day maximum effluent limitations (see Section II), EPA has analyzed data on POTW effluent levels at the secondary treatment and advanced secondary treatment levels. Discussions of both the cost and effluent level analyses appear in Section III of this notice.

Finally, this notice presents the results of the above changes to the two BCT tests and summary information on the resulting BCT effluent limitations for a number of industry categories. The resulting BCT benchmarks for the two tests appear in Section IV of this notice; industry category information appears in Section V.

Following analysis of the comments we receive on this notice, the Agency may publish a final BCT methodology and final effluent limitations for the industries mentioned above. Alternatively, the Agency may repropose the methodology and/or the effluent limitations.

II. Planned Changes to the BCT Methodology in Response to Comment

A. Public Comments

EPA received public comments from 44 representatives from industry and one state environmental protection agency. These comments addressed a wide variety of issues, ranging from EPA's methodology for setting national BCT effluent limitations to issues relating to NPDES permitting. This notice addresses only the major changes EPA is considering making in the BCT methodology. EPA will fully respond to all comments when the BCT methodology is promulgated.

This section begins with a summary of the 1982 proposed methodology. For further detail, the reader should refer to the 1982 Federal Register notice (47 FR 49176). The rest of this section summarizes the major changes EPA is considering making to the BCT methodology. The BCT methodology proposed in 1982 consists of two parts: a POTW test and an industry cost-effectiveness test.

B. Summary of 1982 Proposed Methodology

1. The POTW Test

This test compares the cost for industry to remove an additional pound of conventional pollutants to the cost incurred by POTWs for removing an additional pound of conventional pollutants. Conventional pollutants include biochemical oxygen-demanding pollutants, suspended solids, oil and grease, and pH. The test is carried out by comparing a POTW's cost of pollutant removal in going from secondary treatment to advanced secondary treatment (the POTW benchmark) with an industry's cost in going from BPT to BCT.

The POTW costs were estimated by using cost curves developed by EPA for the "Construction Grants Needs Survey." Effluent reduction for conventional pollutants was computed by taking the difference between the national 30-day maximum effluent limitations for secondary treatment of 30 mg/l of biochemical oxygen demand (BOD) and 30 mg/l of total suspended solids (TSS) and the best performance level for advanced secondary treatment of 10 mg/l of BOD and 10 mg/l of TSS. The cost and effluent reduction were calculated for four sizes of POTWs and "flow-weighted" to arrive at one POTW benchmark. EPA proposed a POTW benchmark of $0.27 per pound in 1976 dollars.

EPA calculated the industrial costs as the difference between the annual costs in going from BPT to the candidate BCT technology level(s). For secondary industries, this level was the BAT level that was promulgated prior to enactment of BCT; for primary industries (for which there were generally no pre-existing BAT limitations) the Agency considered several candidate technology levels for BCT. All candidate technology levels were evaluated, unless there were other reasons for rejection the technology level unrelated to the BCT methodology. The industry calculations were computed for each subcategory within an industrial point source category.

In determining industrial costs and effluent reduction, EPA used data drawn from EPA development documents for each of the industry categories. EPA calculated annual costs by including operation and maintenance costs, interest, and amortization of capital investment. Effluent reductions were computed in the following manner. EPA calculated the incremental removal as the difference between the annual pounds discharged after compliance with BPT and the pounds discharged after compliance with each candidate BCT technology level. These removals were based on the regulatory limits established for the discharge of each pollutant (the 30-day maximum effluent limitations).

If the cost for a subcategory in going from BPT to the candidate BCT was lower than the POTW benchmark of $0.27 per pound, the test was passed; if it was higher, EPA proposed to set BCT effluent limitations equal to those for BPT. Those subcategories that passed were then evaluated in the second test.

2. The Industry Cost Test

The industry cost test compares industry's incremental cost per pound in going from pre-BPT to BPT levels with the incremental cost in going from BPT to BCT. This ratio, the latter divided by the former, is compared against an industry cost benchmark, which is also based on POTW cost and effluent data.

In establishing the annual cost per pound for "pre-BPT to BPT," EPA used two different treatment levels for pre-BPT, depending on data availability. Where possible, pre-BPT was based on cost and effluent data for treatment-in-place levels at the time BPT limitations were developed for the individual industry. If these data were not available, EPA used an assumption of no treatment of wastewater (raw wasteload) for pre-BPT. For either level, the pre-BPT effluent levels were based on annual averages rather than 30-day maximum effluent limitations.

The industry calculations were compared to the industry cost benchmark, which was based on POTW cost and effluent data. EPA computed this benchmark by dividing the incremental cost per pound in going from secondary treatment to advanced secondary treatment by the incremental cost per pound in going from primary treatment to secondary treatment.

The proposed benchmark was 1.43. If an industry subcategory calculation was lower than the benchmark, the candidate technology passed the test and EPA proposed BCT effluent limitations based on the candidate technology. If the calculation for the candidate technology was higher, the candidate technology failed the test and EPA proposed BCT effluent limitations equal to those for BPT.

C. Choice of AST Effluent Level

1. Public Comment

The State of Vermont commented that the selection of 10 mg/l as the achievable advanced secondary treatment effluent concentration for both BOD and TSS was not representative of POTW performance at advanced secondary treatment. The State noted that the operational definition of advanced secondary treatment has been described in EPA documents as ranging from 10 mg/l to 25 mg/l (for both BOD and TSS) rather than as a single, legally defined value, such as 30 mg/l for secondary treatment. Furthermore, the State concluded that 30 mg/l for secondary treatment is an average level of performance since it is a national standard; on the other hand, 10 mg/l for advanced secondary treatment represents a best performance system.

The American Paper Institute submitted a rebuttal comment to that of the State of Vermont, asserting that there was no need for EPA to change the definition of advanced secondary treatment.

2. Planned Change

EPA reexamined the data and is considering a revision to the definition of advanced secondary treatment. The revised effluent concentrations would be 20 mg/l each, for BOD and TSS. EPA believes that the level represents typical permit limitations for advanced secondary treatment facilities. This conclusion is discussed in Section III.

D. Use of Pre-BPT and Pre-Secondary Treatment Levels

1. Public Comments

Commenters complained that EPA's inconsistent definition of pre-BPT treatment levels would result in an inconsistency in BCT indusltrial calculations. They noted that these inconsistencies would lead to misleading conclusions regarding the cost per pound of BPT effluent limitations and bias the industry cost test against certain industries.

When EPA selected pre-BPT levels for industrial categories and subcategories, it attempted to choose treatment levels existing at the time of the development of BPT effluent limitations. Commenters criticized the subjectivity involved in selecting that treatment level. They also pointed out that this "treatment-in-place" level could not be developed for all industry categories and that EPA had

to assume no treatment for certain industries. By using both "treatment-in-place" and raw wasteloads, EPA introduced inconsistencies and biases that were based only on whether an industry had substantially complied with BPT effluent limitations before their promulgation or on availability of data to perform the calculations. Commenters asserted that these factors should not be a consideration in determining the stringency of BCT effluent limitations.

Commenters suggested two ways to improve this computation. First, some commenters suggested that EPA collect new data to employ the "treatment-in-place" method for all industry categories. Second, other commenters suggested that EPA switch all calculations to a raw wasteload basis (no treatment of wastewater).

2. Planned Change

EPA agrees with the criticisms and believes that the extent of treatment installed by industrial facilities prior to BPT should not be a consideration in establishing BCT. Therefore, the Agency is considering establishing the pre-BPT treatment level as raw wasteload for all industries for both the cost and effluent reduction calculations. At the same time, EPA also recognizes that the primary treatment level for POTWs cannot be considered to be equivalent to raw wasteload for industry. Hence, EPA is considering using raw wasteload instead of primary treatment in calculating both POTW cost and effluent reduction. EPA believes these two changes together would address the concerns of commenters while maintaining consistency between POTW and industry calculations.

E. Use of 30-Day Maximum Effluent Limitations

1. Public Comments

EPA received several comments opposing EPA's use of 30-day maximum effluent limitations for some of the effluent reduction calculations.

Commenters claimed that the use of 30-day maximum effluent levels biases the test against industries with "variability factors" larger than those for a POTW. A "variability factor" is the ratio of 30-day maximum effluent levels compared to long-term effluent levels. The use of 30-day maximum levels was said to bias the test against the industry by overstating the incremental pounds of pollutants removed by treatment technologies relative to the POTW benchmark.

For industry calculations, the commenters also noted that EPA based removals on 30-day maximum effluent limitations for BPT and BCT levels, while using annual average effluent levels for pre-BPT levels (both treatment-in-place and raw wasteload). This was said to bias the dollar per pound calculations for both the BPT and BCT incremental treatment levels. The calculation overstates the actual pounds removed annually in going from BPT to BCT levels, and understates the actual pounds in going from pre-BPT to BPT levels.

Commenters suggested several ways to correct these biases. They all focused on the use of long-term performance data.

For the POTW cost per pound calculations, one commenter claimed that the difference was insignificant between utilizing annual average effluent levels and 30-day maximum effluent limitations.

2. Planned Change

EPA recognizes the merits of these comments. In evaluating how to respond to these comments, EPA began with the premise that the calculations for the BCT benchmarks and those for each industrial subcategory should be made as consistent as possible. Despite comments stating that the use of 30-day maximum effluent limitations versus annual averages is insignificant for POTW calculations, EPA's analysis shows that it does have a substantial effect on the calculation of the BCT benchmarks.

EPA is considering changing the calculations in the following manner. For the industrial calculations, EPA would switch from using maximum 30-day effluent limitations at the BPT and BCT levels to annual average effluent levels. The raw wasteload (the new definition of pre-BPT) would also be calculated using annual average effluent levels. For the POTW calculations, EPA would use annual average effluent levels for raw wasteload, secondary treatment, and advanced secondary treatment. The derivation and discussion of these levels for POTWs is presented in Section III.

F. The Two-Tier Approach

1. Public Comments

As noted above, one commenter suggested that where EPA lacks the data for annual average effluent levels for BPT and BCT, EPA should attempt to estimate them from 30-day maximum effluent limitations

2. Planned Change

For secondary industries, EPA can only perform the industry calculations at BPT and BCT levels using the 30-day maximum effluent limitations and at raw wasteload (the pre-BPT level) using annual average effluent. This is due to data constraints for some of the regulations developed in the mid-1970s.

To reduce the possible bias that would exist if EPA used BCT benchmarks based on annual averages, EPA is considering establishing a second tier of BCT benchmarks that correspond to the industry calculations. EPA would use 30-day maximum effluent limitations for secondary treatment and advanced secondary treatment and annual averages for raw wasteload in deriving this second set of BCT benchmarks. This solution provides for a "second tier" of industries where EPA believes that the time and resources needed to solve the data problem by re-estimating the industry calculations are prohibitive. Table 1 summarizes EPA's "two tier" approach.

G. Use of POTW Cost Curves

1. Public Comments

Commenters opposed EPA's use of actual plant costs in deriving the POTW cost curves. Commenters believed that site-specific factors dwarfed the cost differentials associated with improving POTW effluent performance in going from secondary treatment to advanced secondary treatment.

Commenters also asserted that EPA's use of POTW cost indices to express costs in various years' dollars caused distortions in the indexed BCT benchmarks. Commenters suggested modifying the use of these indices, or switching to a different index, such as the Construction Cost Index from *Engineering News Record.*

2. Planned Change

As explained further in Section III, EPA plans to revamp the POTW cost basis for the BCT benchmarks by no longer using the POTW cost curves that were proposed. EPA's new approach employs design cost estimates for specific POTW model plants.

TABLE 1.—THE "TWO-TIER" APPROACH FOR BCT INDUSTRY CATEGORIES EFFLUENT LEVEL DETERMINATIONS

	Tier 1—annual average effluent data is available	Tier 2—annual average effluent data is not available
Industry Calculations		
Raw waste load	Annual average effluents.	Annual average effluents.

TABLE 1.—THE "TWO-TIER" APPROACH FOR BCT INDUSTRY CATEGORIES EFFLUENT LEVEL DETERMINATIONS—Continued

	Tier 1—annual average effluent data is available	Tier 2—annual average effluent data is not available
Best practicable technology (BPT).	Annual average effluents.	30-day maximum effluent limitations.
Best conventional technology (BCT).	Annual average effluents.	30-day maximum effluent limitations.
BCT Benchmarks		
Raw wasteload	Annual average effluents.	Annual average effluents.
Secondary treatment.	Annual average effluents.	30-day maximum effluent limitations.
Advanced secondary treatment.	Annual average effluents.	30-day maximum effluent limitations.

This approach eliminates the problems caused by site-specific factors. EPA is also modifying its use of the POTW cost indices to mitigate the distortions in the indexed BCT benchmarks. The following section details the new POTW cost estimation approach.

III. New Data and Analysis

A. New POTW Cost Data and Analysis

1. POTW Cost Data in the BCT Methodology

The BCT methodology requires that the cost and level of reduction of conventional pollutants for industrial dischargers be compared to the cost and level of reduction to remove the same pollutants by publicly owned treatment works. For POTW costs, the Agency is essentially retaining the same approach used in the October 1982 proposal (described at 47 FR 49196). We continue to estimate the incremental cost to reach advanced secondary treatment for five flow sizes of POTWs. The major change in our approach is that we are now using design estimates for model plants instead of the empirical data used at proposal.

2. Planned Changes in Using Cost Data

The first step in the calculations is to determine the flow sizes for which we will estimate costs, because POTW costs vary with flow size. Table 2 presents a distribution, by flow, of POTWs in the United States. This distribution is based on the number of POTWs operating or under construction in 1980, as reported in the "1980 Needs Survey" (FRD-23; EPA 430/9-81-008, February 10, 1981).

TABLES 2.—POTW SIZE DISTRIBUTION

	Size range by flow (mgd)					
	0 to 0.105	0.106 to 1.05	1.06 to 10.5	10.6 to 50.2	50.3 & greater	All plants
Number of plants	5,021	7,033	2,686	415	96	15,251
Total flow	259	2,675	8,836	9,290	13,354	34,415
Average flow	0.0515	0.3803	3.290	22.39	139.1	2.257
Weighting factor	.0075	.0777	.2567	.2700	.3890	.9999

SOURCE: The 1980 Needs Survey (FRD-23; EPA 430/9-81-008, February 1981).

The POTW cost estimates used in the proposal were based on cost curves for the flow range of 1–50 million gallons per day (mgd) because the data in that range were most reliable. Four plant sizes were used to represent the five size categories in the Needs Survey. We are now using five model plant sizes; each is approximately equal to the average flow in the size category. For the 0–0.105 mgd size group, the model plant is 0.052 mgd; for the 0.106–1.05 mgd size group, the model group plant is 0.38 mgd; for the 1.06–10.5 mgd size group, the model plant is 3.3 mgd; for the 10.6–50.2 mgd size group, the model plant is 25 mgd; and for the 50.2 and greater mgd size group, the model plant is 140 mgd.

The POTW cost comparison figure is based on weighting the cost per pound of conventional pollutants removed by POTWs according to the size distribution of POTWs in the United States. The second step, therefore, is to determine the weighting factor for each model plant. The calculation of weighting factors is the same as in the proposal. The factors, shown on the last line of Table 2, are calculated by dividing the total flow for each size group by the total flow for all POTWs.

As in the proposal, the POTW costs used in estimating the cost of pollutant removal are the total annual costs of constructing and operating a secondary treatment plant, and the total annual costs of upgrading that system to advanced secondary treatment. We are now calculating that increment using model plant costs. Total annual costs include capital charges, interest, and operation and maintenance costs. Capital costs are amortized over 30 years at a 10 percent interest rate, as defined in the October 1982 proposal. The model plant costs are indexed to 1976 third quarter dollars and to other years' dollars to facilitate comparison of the benchmark to various industry calculations.

3. Cost Data Previously Used

For the October 1982 proposal, the Agency based its estimates of POTW costs on information from two EPA documents (FRD 11, EPA 430/9-80-003, April 1980 and FRD 22, EPA 430/9-81-004, September 1981). At that time, those documents provided current information regarding the costs of constructing and operating POTWs. In 1983, more up-to-date cost information was available, and on June 2, 1983, the Agency issued a Notice of Availability on the new cost data; the notice indicated EPA's intent to use the new data to promulgate the BCT methodology (48 FR 24742).

After the Notice of Availability was published, EPA became aware that the new data might not be appropriate for use in the BCT methodology. In the analysis of the construction cost data, it appeared that the editing criteria that were used to define secondary treatment systems and advanced secondary treatment systems might have been inaccurate or inconsistent. The cost of secondary treatment and advanced secondary treatment may also have varied substantially due to site-specific factors. The resulting difference in costs between secondary treatment and advanced secondary treatment might, therefore, have been unsuitable for use in the BCT methodology. The Agency also realized that the data used at propsal in October 1982 might be subject to similar analytical problems. Consequently, in September 1983, the Agency withdrew the newer data (48 FR 44091) to further evaluate the data and determine whether the data are appropriate for the BCT methodology.

EPA concluded that it was necessary to use a different data source for POTW costs. The approach we are using is to develop POTW model plant costs specifically for this rulemaking.

4. Treatment Level Definitions for Model Plants

The model plants are municipal wastewater treatment facilities with specifications for size, basic design, general operating conditions, and required effluent levels.

The design criteria for secondary treatment call for the plant to start operating in 1977, which parallels the time for compliance with BPT effluent limitations guidelines by industrial dischargers. Also, the specific design criteria for the model plants reflect technology that was current in 1977. The maximum 30-day effluent limitations for secondary treatment are 30 mg/l BOD and 30 mg/l TSS.

The design criteria for advanced secondary treatment reflect an existing facility being modified to achieve more stringent effluent levels. The Agency set forth three effluent levels for defining

advanced secondary treatment. For each of these effluent levels, we determined a treatment technology that could be used to upgrade the secondary POTW to meet the more stringent effluent limits. The three effluent levels are: (1) 20 mg/l BOD and 20 mg/l TSS, (2) 15 mg/l BOD and 15 mg/l TSS, and (3) 10 mg/l BOD and 10 mg/l TSS.

We considered the frequency of each of these levels in data from more than 900 POTWs (EPA 430/9-81-004), and 20 mg/l BOD is the most common permit level for plants beyond secondary treatment. For this reason, the Agency believes that the best definition of advanced secondary treatment is 20 mg/l BOD and 20 mg/l TSS, and the incremental cost calculations described below reflect the additional technology needed to achieve that particular effluent level.

5. Treatment Technologies for Model Plants

The biological treatment technology we specify in calculating the cost of secondary treatment is activated sludge. Various sludge disposal methods are used, depending on the size of the model plant.

To upgrade the secondary POTW to meet effluent limitations of 20 mg/l BOD and 20 mg/l TSS, the treatment technology is chemical addition. We recognized that secondary treatment plants may achieve better performance than 30 mg/l BOD and 30 mg/l TSS and might intermittently achieve 20 mg/l BOD and 20 mg/l TSS without additonal technology. With the constraint that the existing facility was built in 1977, however, the Agency believes that consistent performance at the more stringent level can only be achieved with additional treatment and, therefore, additional cost. To upgrade the POTW to 15 mg/l BOD and 15 mg/l TSS, the additional technology is filtration, and to achieve 10 mg/l BOD and 10 mg/l TSS, the additional technolgy includes both filtration and chemical addition. To achieve any of the advanced secondary limitations, the additional technology is added to the secondary POTW; the additions are not cumulative.

6. New POTW Cost Data

The Agency selected four firms to estimate the model plant costs. Each is a nationally recognized expert in designing municipal wastewater treatment facilities. The four firms are Sverdrup and Parcel and Associates, Inc., E. C. Jordan Co., Camp Dresser and McKee Inc., and J. M. Smith and Associates Consulting Engineers. The first three firms estimated costs for the three largest model plant sizes. The fourth firm, using EPA planning level estimates, provided costs for the two smallest plant sizes. Each firm estimated costs for secondary treatment and for each of the upgrades to advanced secondary treatment.

A summary of results is shown in Table 3. The three estimates of total annual costs for secondary treatment for the largest model plant are $43.0 million, $36.2 million, and $27.7 million. While there are some differences, all three are valid estimates of the cost of achieving the specified effluent level. The Agency believes that the differences in cost estimates are explained by differences in engineering philosophies. While the basic design criteria and general operating conditions were the same for all three firms, the specific design criteria were determined by each firm, according to their best judgment, experience, and expertise. Comparisons for specific processes show that differences exist in the choice of equipment, size and operating specifications of equipment, structures that house the processes, and plant layout. These differences are reflected by differences in both capital and operating costs.

TABLE 3.—POTW TOTAL ANNUAL COST ESTIMATES TO ACHIEVE SECONDARY TREATMENT AND THE INCREMENTAL COST TO UPGRADE TO ADVANCED SECONDARY TREATMENT

[1984 dollars, in millions]

	Size of model plant (mgd)				
	0.052	0.38	3.3	25	140
Total annual cost to achieve secondary treatment (30/30):					
JMS	0.07	0.27			
CDM			3.34	12.19	43.02
ECJ			1.96	8.31	27.74
S&P			1.69	8.25	36.18
Incremental cost to upgrade to advanced secondary treatment (20/20):					
JMS	0.0	0.0			
CDM			0.11	0.84	4.23
ECJ			0.12	0.39	1.24
S&P			0.32	1.53	7.37

Key: JMS: J.M. Smith and Associates Consulting Engineers.
CDM: Camp Dresser and McKee Inc.
ECJ: E.C. Jordan Co.
S&P: Sverdrup and Parcel and Associates, Inc.

The Agency believes that each estimate is a fair representation of the cost of building and operating a secondary treatment facility. Similarly, we believe that the various incremental costs are realistic estimates for upgrading from secondary treatment to advanced secondary treatment. To calculate the benchmark, therefore, we should use all of the firms' estimates. The following section describes various methods for using the three estimates of total annual costs for the three largest plant sizes. The smaller model plants, for which we have single cost estimates, are then incorporated in the benchmark calculations (see Secion IV).

Each firm initially provided capital costs and operation and maintenance costs expressed in 1984 dollars. These estimates are then indexed to other years' dollars, from 1975 to 1984. We used the same basic approach to indexing as in the proposal with minor changes. The result is an indexed capital cost and an indexed operation and maintenance cost. Then, as shown in Table 3, the total annual cost is calculated as the sum of operation and maintenance costs and amortized capital costs.

7. Approaches for Using the New POTW Cost Data

The Agency is considering several statistical approaches to consolidate the data from the three firms. By using all of the estimates, we are best able to incorporate each firm's engineering judgment.

The approaches we are considering include arithmetic averages, median values, estimates from regression equations of each firm's data, and regression equations combining all of the data. A detailed discussion of all of the approaches and the results are included in the Record.

Our preferred approach is to compute mean costs (arithmetic average) for each model plant size. The mean incorporates all of the data, weights each firm's estimates equally, and thus represents the average of the best estimates. By using this approach, we have a single annual cost estimate at each effluent level and at each flow size. Then, the incremental cost to be used in benchmark calculations is the additional cost needed to upgrade treatment from secondary to advanced secondary. Table 4 presents a summary of the incremental costs for each model plant size, based on the mean costs. These values are used to calculate the benchmarks in this notice (see Section IV).

The benchmark calculations also require an estimate of the pounds of pollutants removed for a specific effluent level. As stated in Section II above, the Agency is considering using the long-term average effluent level for this calculation. Finding the long-term value is discussed in detail in Section III-B, below.

TABLE 4.—TOTAL ANNUAL MEAN COST

[1976 dollars, in millions]

Size of plant (mgd)	Secondary treatment (30 mg/l BOD and 30 mg/l TSS)	Advanced secondary treatment (20 mg/l BOD and 20 mg/l TSS)	Incremental cost
0.052	0.04	0.04	0
0.38	0.16	0.16	0
3.3	1.35	1.45	0.10
25	5.53	6.06	0.53
140	20.55	22.98	2.43

B. New POTW Effluent Data and Analysis

1. Use of Long-Term Average Effluent Levels

In addition to the new POTW cost data discussed in Section III–A, the Agency is considering using a different source of POTW effluent data for calcuating the benchmarks. Also, as mentioned in Section II, the Agency is considering using long-term average effluent concentrations instead of 30-day maximum effluent concentrations. The long-term averages in this notice are derived from actual performance data for both secondary treatment and advanced secondary treatment. This section describes how we determine the long-term average for each treatment level.

2. Analysis of POTW Performance Data.

We are considering using performance data from a data base that includes information from more than 900 wasterwater treatment facilities. The data were reported by the Agency in 1981 and represent a range of plant sizes and treatment technologies (FRD 22; EPA 430/9–81–004, September 1981). The focus of this data collection effort was POTW operation and maintenance costs. The data base also contains influent and effluent BOD and TSS concentrations, flow data, and permit information. Much of the performance data is presented in monthly averages for 12 consecutive months. These data are used to estimate the average concentrations of BOD and TSS in the effluent wastewaters of well-operated POTWs with secondary and advanced secondary treatment.

The long-term performance for secondary treatment is based on the actual performance of secondary treatment plants in the data base. We define secondary treatment plants with the following editing criteria. First, the plants with less than 12 months of performance data are excluded. Second, the plants with specialized nutrient removal as part of their treatment systems are excluded. Third, the permit limitation for BOD is 30 mg/l. Fourth, the actual monthly average effluent levels for BOD and TSS are 30 mg/l or lower. Fifth, which is an exception to the fourth editing criteria, one monthly average effluent value of either BOD or TSS can exceed 30 mg/l. When all of the conditions are met, we have plants whose permit limitations are characteristic of secondary treatment, and they are generally in compliance with those permits. By including plants with one monthly violation, we increase the number of plants in the group without sacrificing clarity of the secondary treatment definition. The long-term average performance for secondary treatment plants is then calculated as the average of all of the monthly performance data for the plants identified as secondary treatment.

EPA recently completed another study that considers the definition of secondary treatment by effluent level. This information is included in the Record (see "Technical Support Document for Proposed Regulations under section 304(d)(4)," July 1983). The Agency's preliminary analysis indicates that this newer information is consistent with the long-term averages used here. Additional information on specific POTW performance and reliability studies are also included in the Record.

A similar procedure is followed to estimate the average effluent BOD and TSS concentrations for advanced secondary treatment. The editing criteria are similar to those used to define secondary treatment except that the permit limitation for effluent BOD is 20 mg/l. The permit concentration must be achieved for both BOD and TSS, except for one monthly violation of either BOD or TSS. Then, the long-term average is the average of actual performance data for those advanced secondary treatment plants. The same procedure is used for other performance levels of advanced secondary treatment, such as 15 mg/l or 10 mg/l.

In addition to the criteria described above, the Agency considered other preformance-related measures, such as the percentage of design flow actually being treated by the plant, the BOD removal percentage, and the influent BOD concentrations. The Agency's analysis shows these other criteria are either statistically insignificant or not relevant for calculating the long-term performance levels for the BCT benchmarks.

3. Results of Long-Term Performance Analysis

A summary of the findings is presented in Table 5. For secondary treatment plants, the result is a long-term average of 12.99 mg/l BOD and 12.78 mg/l TSS, based on 92 plants. For advanced secondary treatment, the long-term average is 8.26 mg/l BOD and 8.02 mg/l TSS, based on 27 plants. These long-term effluent levels, rather than the 30-day maximum values used at proposal, are used to calculate the number of pounds removed at each effluent level.

TABLE 5.—LONG-TERM AVERAGE EFFLUENT LEVELS FOR POTWS

Effluent level	Number of plants included in calculation	30-day maximum concentration (mg/l)		Long-term average concentration (mg/l)	
		BOD	TSS	BOD	TSS
Raw waste				210.0	210.0
Secondary treatment	92	30.0	30.0	12.99	12.78
Advanced secondary treatment	27	20.0	20.0	8.26	8.02

IV. Summary of Benchmark Calculations

A. POTW Test

The first test compares an industry cost for removing conventional pollutants beyond BPT to a POTW cost benchmark for removing conventional pollutants beyond secondary treatment. As discussed previously, EPA is considering three changes that affect the calculations presented in this notice. First, the POTW cost estimates are based on the model plant costs. Second, the number of pounds of pollutants removed by POTWs is based on annual averages, not 30-day maximum effluent levels. Third, the definition of advanced secondary treatment for a POTW is based on maximum 30-day effluent limitations of 20 mg/l BOD and 20 mg/l TSS.

The calculations for incremental annual costs are discussed in Section III–A, above. The number of pounds of pollutants removed is calculated by multiplying the POTW flow by the difference in pollutant concentrations between levels of POTW performance. For the POTW cost benchmark, the change in concentration is from secondary treatment to advanced secondary treatment. Using the annual average effluent level, this change in concentration is from 12.99 to 8.26 mg/l for BOD and from 12.78 to 8.02 mg/l for TSS (as shown in Table 5). Thus, the total change in concentration for both pollutants is 9.49 mg/l. The pounds of pollutant removed for each of the model

plant sizes is shown in Table 6. The incremental pollutant removals range from 1.5 thousand pounds per year for the 0.052 mgd model plant to 4.0 million pounds per year for the 140 mgd model plant.

TABLE 6.—INCREMENTAL POLLUTANT REMOVAL: SECONDARY TREATMENT TO ADVANCED SECONDARY TREATMENT

Flow size (mgd)	Pollutants removed (million pounds of BOD and TSS)
0.052	0.0015
0.38	.0110
3.3	.0954
25	.723
140	4.05

The next step in the calculations is to determine the incremental cost of removal. For each flow size, we divide the incremental annual cost (Table 4) by the incremental pollutant removal and weight the results by the factors shown in Table 2. These calculations are summarized in Table 7.

TABLE 7.—SUMMARY OF POTW BENCHMARK CALCULATIONS: SECONDARY TREATMENT TO ADVANCED SECONDARY TREATMENT

[1976 dollars]

Flow size (mgd)	Incremental annual cost (in millions)	Incremental annual removal (million pounds)	Dollar per pound	Weighting factor	Weighted dollars per pound
0.052	0.0	0.0015	0	0.0075	0
0.38	0.0	.0110	0	.0777	0
3.3	.105	.0954	1.10	.2567	0.28
25	.526	.723	0.73	.2700	.20
140	2.43	4.05	0.60	.3880	.23
Total					.71

The result of this series of planned changes to the methodology, in 1976 third quarter dollars, would be a POTW benchmark of $0.71 per pound. The benchmark is indexed for other time periods in Table 8. If the analogous cost per pound removed for industry results in a value that is lower than the POTW benchmark, the industry result passes the POTW test and the second test is considered.

TABLE 8.—POTW BENCHMARKS FOR VARIOUS TIME PERIODS

Year	Quarter			
	1st	2nd	3rd	4th
1976	0.68	0.69	0.71	0.72
1978	0.79	0.81	0.83	0.84
1980	0.98	1.00	1.02	1.04
1982	1.17	1.18	1.20	1.21
1984	1.25			

The final POTW benchmark selected by the Agency will be based on a consideration of the possible changes to the methodology discussed in this notice and on the public comments we receive. Some of the alternatives discussed in the notice would increase the POTW benchmark. For example, if a more stringent definition of advanced secondary treatment were selected, some direct dischargers would be faced with additional controls for conventional pollutants based on BCT. The POTW benchmarks based on other alternatives are presented in the Record.

B. Industry Cost Test

For the second test, EPA uses an industry cost benchmark that compares the cost per pound of removing conventional pollutants beyond secondary treatment to the cost per pound in reaching secondary treatment. The changes that would affect this calculation are the same as those affecting the first test plus one additional change: The starting point for calculating the cost per pound in reaching secondary treatment is raw wasteload instead of primary treatment. A similar change would be made for industry calculations; that is, each industry's ratio for this cost test would compare the cost per pound of removing pollutants beyond BPT to the cost per pound of reaching BPT from their raw wasteload. The following paragraphs in this section outline the calculations for the industry cost test, based on the above discussion.

For each flow size, we calculate the following ratio: incremental dollars per pound for upgrading secondary treatment to advanced secondary treatment divided by the dollars per pound to achieve secondary treatment from raw wasteload. The first value in this ratio is the incremental cost per pound for upgrading secondary treatment to advanced secondary treatment. The calculations for this incremental cost are described above for the first test (the POTW benchmark), and a summary of those calculations for each flow size is shown in Table 7.

The second value in the ratio is the cost per pound to achieve secondary treatment from raw wasteload. As part of the new cost data, we have estimates of the costs to achieve secondary treatment, and these costs (originally shown in Table 4) are repeated in the second column of Table 9.

TABLE 9.—INCREMENTAL ANNUAL COST PER POUND OF REMOVAL: RAW WASTELOAD TO SECONDARY TREATMENT

Flow size (mgd)	Incremental annual cost ($ 1976, in millions)	Incremental annual removal (million pounds)	Dollar per pound removed (1976 dollars)
0.052	0.041	0.062	.66
0.38	.157	.456	.34
3.3	1.35	3.96	.34
25	5.53	30.0	.18
140	20.55	168	.12

The incremental pollutant removals are again calculated by multiplying the POTW flow by the difference in pollutant concentrations. The influent concentration for raw waste at the model plants is estimated to be 210 mg/l BOD and 210 mg/l TSS. The "1980 Needs Survey" reports influent BOD and TSS concentrations of 205 and 230 mg/l, respectively. Another Agency study ("Fate of Priority Pollutants in Publicly Owned Treatment Works," EPA 440/1-82-303, September 1982) reports concentrations of 218 and 201 mg/l for BOD and TSS, respectively. The influent concentrations we are using here (210 and 210 mg/l) are based on the Agency's interpretation of these data, and these concentrations are annual averages. Thus, the change in concentration from raw wasteload to secondary treatment is from 210 to 12.99 mg/l for BOD and from 210 to 12.78 mg/l for TSS. Thus, the total change in concentration for both pollutants for the increment of raw waste to secondary treatment is 394.23 mg/l. This change in concentration is multiplied by flow to calculate the number of pounds removed by secondary treatment. These results are shown in the third column of Table 9. The dollar per pound values for each size are then calculated by dividing the incremental cost by the incremental removal. The results are shown in the final column of Table 9.

The remaining industry cost benchmark calculations are summarized in Table 10. For each flow size, the cost per pound for the increment of secondary treatment to advanced secondary treatment is divided by the cost per pound for the increment of raw waste to secondary treatment. Those cost ratios are multiplied by the weighting factors for each size, and the total of the weighted ratios is the industry cost benchmark. The result, if we change the methodology as described, would be a benchmark of 3.81. If the analogous ratio for an industry subcategory is lower than 3.81, it would pass the second test.

TABLE 10.—SUMMARY OF INDUSTRY COST BENCHMARK CALCULATIONS

Flow (mgd)	Incremental cost per pound (1976 dollars)		Cost ratio	Weighting factor	Weighted ratio
	Raw waste-load to secondary treatment	Secondary treatment to advanced secondary treatment			
0.052	0.665	0	0	0.0075	0
.38	.345	0	0	.0777	0
3.3	.340	1.10	3.23	.2567	0.83
25	.184	.728	3.95	.2700	1.07
140	.122	.601	4.92	.3880	1.91
Total					3.81

The final industry cost benchmark, like the POTW benchmark, will be selected by the Agency based on a consideration of the possible changes to the methodology and the public comments we receive in response to the notice. It is possible, by using some of the alternatives, that the industry cost benchmark will be higher than that shown in this notice. If the final methodology contains a higher industry cost benchmark, then it is also possible that more industry subcategories will pass the BCT cost test and have BCT effluent limitations more stringent than BPT.

V. Results of Industry Comparisons

A. Status and Background

As stated in Section I, this notice presents the results of the two BCT cost tests for some secondary industries and for two primary industries: Pharmaceutical Manufacturing and Pulp, Paper, and Paperboard. The results in this section are based on the methodology and benchmark calculations described in earlier sections of this notice. Different decisions on the methodological issues discussed in this notice would lead to different benchmarks and hence, different effects on industries.

B. Secondary Industries

One major purpose of the October 1982 proposal was to review BAT limitations that had been established for the secondary industries. Some subcategories were excluded from the proposal because the Agency rejected the candidate BCT technologies due to technical or economic impact considerations. The subcategories that were excluded from analysis in 1982 proposal for those reasons are also excluded here. The reader is referred to that notice for further discussion. The results of the current analysis appear in Table 11. The calculations for each industry subcategory (i.e., the industry values that are compared to the benchmarks) are included in the Record. Table 11 is a summary of whether the industry calculations exceed the benchmarks.

TABLE 11.—SECONDARY INDUSTRY RESULTS FOR BCT EFFLUENT LIMITATION GUIDELINES

Industry subcategory	Sizes (if any)	BCT limitations	
		Equal to BPT	Equal to BAT
GRAIN MILLS—PART 406			
Corn dry milling	S,L	X	
Bulgar wheat		X	
Parboiled rice		X	
Ready-to-eat cereal	S,M,L	X	
Wheat starch and gluten		X	
CANNED AND PRESERVED FRUITS AND VEGETABLES—PART 407			
Apple juice	S,L	X	
Apple products	S,L	X	
Citrus products	S,L	X	
Frozen potato products	S,L	X	
Dehydrated potato products	S,L	X	
Canned and preserved fruits		X	
Canned and preserved vegetables.		X	
Canned and miscellaneous specialities.		X	
CANNED AND PRESERVED SEAFOOD PROCESSING—PART 408			
Farm-raised catfish	S,M,L	X	
West coast hand-butchered salmon.	S,L	X	
Pacific coast hand-shucked oyster.			X
Atlantic and Gulf Coast hand-shucked oyster.			X
Nonalaskan scallop			X
Abalone processing			X
SUGAR PROCESSING—PART 409			
Bet sugar		X	
Crystalline cane sugar	S,L	X	
Liquid cane sugar		X	
CEMENT MANUFACTURING PART—411			
Leaching		X	
PHOSPHATE MANUFACTURING—PART 422			
Sodium phosphates	XS,S,M,L		
FERROALLOY MANUFACTURING—PART 424			
Open electric furnaces, wet		X	
Covered electric furnaces and other smelting operations.		X	
Slag processing			X
Covered calcium carbide furnaces, wet.		X	
Electrolytic manganese		X	
Electrolytic chromium		X	
GLASS MANUFACTURING—PART 426			
Plate glass		X	
Float glass		X	
Automotive glass tempering		X	
Automotive glass laminating		X	
Glass container manufacturing		X	
Glass tubing (Danner) manufacturing.		X	
Television picture tube		X	
Incandescent lamp		X	
MEAT PRODUCTS—PART 432			
Small processor			X
Renders			X

As noted in Section II, the BCT test is performed for secondary industries by comparing the appropriate benchmarks to the costs and removals associated with the previous BAT limitations. If the BAT level of control passes the BCT test, then BCT is set equal to BAT. If the BAT level fails, then BCT is set equal to BPT. For many of the secondary industry subcategories, the effluent data is limited to 30-day maximum concentrations; long-term average concentrations are not available. In those cases, the appropriate POTW benchmarks are the second tier benchmarks, which are based on 30-day maximum concentrations. Thus, the comparisons of industry calculations to benchmarks are made of a consistent basis. The second tier POTW benchmark, in 1976 dollars, is $0.34 per pound, and the second tier industry cost benchmark is 1.67.

The results indicate that establishing BCT limitations at the BAT level of control would be reasonable for eight subcategories; that is, eight subcategories pass both BCT tests. The Agency estimates that total annual costs for compliance would be $5 million (1982 dollars). In the October 1982 proposal, the Agency determined that the same eight subcategories would have BCT limitations established at the BAT level of control.

C. Primary Industries

Table 12 presents the results of the BCT cost tests for the Pulp, Paper, and Paperboard industry and for the Pharmaceutical Manufacturing industry. EPA proposed BCT limitations for the Pharmaceutical Manufacturing industry in a separate notice on November 26, 1982 (47 FR 53584). Then, in a Notice of Availability on March 9, 1984, EPA announced its intention to revise the proposed BCT limitations (49 FR 8967). The cost data and industry calculations that underlie the results for Pharamaceutical Manufacturing in Table 12 may not necessarily reflect all of the comments the Agency has received in response to the Notice of Availability. Similarly, the cost data used for the Pulp, Paper, and Paperboard industry are not final and may also be revised. The results in Table 12, therefore, are preliminary and may change when the Agency completes its analysis of compliance costs for those industries in response to prior comments. The results are also dependent on the final choice of methodology.

TABLE 12.—PRIMARY INDUSTRY RESULTS FOR BCT EFFLUENT LIMITATION GUIDELINES

Industry subcategory	BCT test	
	Pass (technology option)	Fail
PULP, PAPER AND PAPERBOARD—PART 430		
Unbleached Kraft	X (1)	
Paperboard from wastepaper		X
Dissolving Kraft		X
Market bleached Kraft	X (1)	
BCT bleached Kraft		X
Fine bleached Kraft		X
Papergrade sulfite (blow pit wash)	X (1)	
Dissolving sulfite pulp		X
Groundwood—TMP	X (1)	
Groundwood—CMN paper		X
Groundwood—Fine papers		X
Soda		X
Deink	X (1)	
Nonintegrated—Fine papers	X (1)	
Nonintegrated—Tissue papers	X (1)	
Tissue from wastepaper	X (1, 4*)	
Papergrade sulfite (drum pit wash)	X (1)	
Unbleached Kraft and semichemical	X (1)	
Semichemical		X
Wastepaper—Molded products		X
Nonintegrated—Filter and nonwoven papers.		X
Nonintegrated—Lightweight paper		X
Nonintegrated—Paperboard		X
PHARMACEUTICALS MANUFACTURING—PART 439		
Fermentation	X (1, 2*)	
Extraction		X
Chemical synthesis	X (1, 2*)	
Mixing/compounding formulation		X

Note: Where more than one BCT technology option passes the BCT test, an asterisk (*) indicates the option EPA plans to select. See text.

The most stringent technology option that passes the BCT test provides the basis for setting BCT limitations. Where more than one technology option passes for a subcategory, an asterisk in Table 12 denotes the most stringent option. If all technology options fail the BCT test, then BCT limitations for that subcategory will be set equal to BPT.

If the BCT methodology is revised as indicated in previous sections, the results for the primary industries indicate that ten subcategories of Pulp, Paper, and Paperboard industry pass both BCT tests; hence, BCT limitations for those subcategories would be more stringent than BPT. The Agency estimates that total annual costs for these subcategories would be $80 million (1982 dollars). In the October 1982 proposal, four subcategories were designated for BCT limitations more stringent than BPT.

BCT limitations more stringent than BPT would also be reasonable for two subcategories in the Pharmaceutical Manufacturing industry. Total annual costs for the Pharmaceutical Manufacturing industry would be estimated to be $7 million (1982 dollars).

VI. Request for Comments

EPA invites public participation in response to this Notice of Data Availability. Additional information on the new data and the alternatives considered is available in the Record. EPA has compiled some of the supporting reports and analysis in a document, "Selected Background Documents for the Notice of Data Availability for BCT Methodology." The Agency alerts the public to the availability of this information, which may be obtained by calling or writing to Ms. Dena Caldwell, Environmental Protection Agency (WH-586), 401 M Street, SW., Washington, D.C. 20460, (202) 382-5397. The Agency is particularly interested in receiving comments on the following issues.

1. The BCT methodology involves a chain of numerous steps. In this notice we discuss each of the steps in the methodology, the changes we are considering making to those steps, and our reasons for making those changes. The results of the methodology are highly sensitive to decisions on the individual steps. Some decisions, in fact, could result in substantially different benchmarks requiring different levels of control than would the benchmarks presented in this notice. The Agency solicits comment on the appropriateness of the results that flow from the changes we are considering. In particular, we solicit comment on the level of the benchmarks.

2. POTW costs are based on design estimates for model plants instead of the empirical data used at proposal. The Agency solicits comment on the development of the model plants and the underlying technical assumptions for secondary treatment and advanced secondary treatment.

3. The Agency is considering a variety of statistical approaches for using the model plant cost estimates. The results in this notice are based on using the mean cost for each performance level. The Agency solicits comments on this choice of approach.

4. The Agency is considering using long-term average effluent levels instead of 30-day maximum effluent levels for calculating the benchmarks. For this notice, we use an extensive data base of POTW performance data to determine the long-term averages for secondary treatment and advanced secondary treatment. We solicit comment on the editing criteria used to define secondary treatment and advanced secondary treatment plants. We are also interested in supplemental information to EPA's data base or alternative sources of data for determining long-term POTW performance for both secondary treatment and advanced secondary treatment plants.

Alternative data bases must demonstrate that the plants are representative. Further, the data base must contain daily or monthly performance data for at least one year for both BOD and TSS, and it must specify the design effluent levels for BOD and TSS. While not essential, the following information would be helpful: description of treatment technology, influent characteristics, permit limitations for BOD and TSS, design capacity, and actual flow. If commenters wish to provide data that can be used to supplement EPA's data base, the same data requirements apply. We wish to emphasize the need for the data to be representative of secondary or advanced secondary treatment.

5. The Agency is considering defining advanced secondary treatment with 30-day maximum effluent limitations of 20 mg/l BOD and 20 mg/l TSS. These concentrations are the most representative of the values specified in permits of advanced secondary treatment facilities. The agency Invites comment on the use of this performance level for advanced secondary treatment.

Dated: August 29, 1984.

Henry L. Longest II,

Acting Assistant Administrator, Office of Water.

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