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Thursday
September 15, 1988

Briefings on How To Use the Federal Register—
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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS Number 1123-88]

Powers and Duties of Service Officers

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the job title of "detention officer" and "detention service officer" to "detention enforcement officer" to reflect the actual duties of this series.

EFFECTIVE DATE: September 15, 1988.

FOR FURTHER INFORMATION CONTACT: William W. Buddenberg, Detention and Deportation Division, Immigration and Naturalization Service, 425 "I" Street NW., Washington, DC 20536, (202) 633-4049.

SUPPLEMENTARY INFORMATION: Currently the Service has two position titles "detention officer" and "detention service officer" which are both classified in the same series (GS-1802). This rule combines both titles into one title, "detention enforcement officer" within that same series.

Compliance with 5 U.S.C. 533 as of notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to agency management.

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

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Reporting and recordkeeping requirements.

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

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

1. The authority citation for Part 103 continues to read as follows:

Authority: 5 U.S.C. 522(a); 8 U.S.C. 1101, 1103, 1201, 1301-1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C. 9701; EO 12356; 3 CFR 1982 Comp., p. 166.

§ 103.1 [Amended]

2. Section 103.1(q) is amended by removing the terms "detention officer, detention service officer" on lines 5 and 6, and inserting the term "detention enforcement officer" after the term "deportation officer".

Dated: September 6, 1988.

Clarence M. Coster,

Associate Commissioner Enforcement.

[FR Doc. 88-21010 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 399

[Docket No. 80981-8181]

Revisions to the Commodity Control List Based on COCOM Review: Metal-Working Machinery; Chemical and Petroleum Equipment; General Industrial Equipment; Transportation Equipment

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends a number of Export Control Commodity Numbers on the CCL in the categories of metal-working machinery, chemical and petroleum equipment, general industrial equipment, and transportation equipment. These revisions have resulted from a review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM). Such multilateral controls restrict the availability of strategic items to controlled countries. With the concurrence of the Department of Defense, the Department of Commerce has determined pursuant to the provisions of the Export Administration Act of 1979, as amended, that this rule is necessary to protect U.S. national security interests.

EFFECTIVE DATE: This rule is effective September 15, 1988.

FOR FURTHER INFORMATION CONTACT: For questions of a technical nature on chemical and petroleum equipment, call George Kuzmycz, Office of Technology and Policy Analysis, Telephone: (202) 377-5696.

For questions of a technical nature on general industrial equipment, call Larry Hall, Office of Technology and Policy Analysis, Telephone: (202) 377-8550.

For questions of a technical nature on transportation equipment, call Bruce Webb, Office of Technology and Policy Analysis, Telephone: (202) 377-3806.

For questions of a technical nature on semiconductor manufacturing equipment, call Robert Anstead, Office of Technology and Policy Analysis, Telephone: (202) 377-1641.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

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

2. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

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

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule implements regulatory changes based on COCOM review. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Will Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 373 and 399

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, Parts 373 and 399 of the Export Administration Regulations (15 CFR Parts 368 through 399) are amended as follows:

1. The authority citations for Parts 373 and 399 are amended to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981, by Pub. L. 99–64 of July 12, 1985, and Pub. L. 100–418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36891, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 373—AMENDED

Supplement No. 1 to Part 373 [Amended]

2. Supplement No. 1 to Part 373 is amended by revising the entry for 1131 to read "Pumps (except vacuum pumps listed under ECCN 1129A) designed to move molten metals by elctromagnetic forces. (Entire entry.)".

PART 399—AMENDED

Supplement No. 1 to § 399.1 [Amended]

3. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), ECCN 1081A is amended by revising paragraph (a)(2) as set forth below and by removing (Advisory) Note 2 that appears at the end of the entry.

1081A Specially designed or modified equipment, tools, dies, molds and fixtures for the manufacture or inspection of aircraft, airframe structures or aircraft fasteners; specially designed components and accessories therefor

* * * * *

List of Machinery Controlled by ECCN 1081A

* * * * *

(a) * * *

(2) Milling aircraft skins or spars *except if they do not present an improvement on machinery in production ten years preceding the year of the export*;

* * * * *

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 1131A is amended by revising the heading of the entry, the "Reason for Control" paragraph, and the "Special Licenses Available" paragraph to read as set forth below and by removing the "List of Pumps Controlled by ECCN 1131A" and the Advisory Note that follows it.

1131A Pumps (except vacuum pumps listed under ECCN 1129A) designed to move molten metals by electromagnetic forces

* * * * *

Reason for Control: National security; nuclear non-proliferation.

Special Licenses Available: None.

* * * * *

5. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 1133A is removed.

6. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), Export Control Commodity Number (ECCN) 1142A is amended by removing the "List of Tubing Controlled by ECCN 1142A" and by revising the heading to read as follows:

1142A Reinforced tubing (including connectors and fittings for use with such tubing) incorporating coagulated dispersion grades of polytetrafluoroethylene, copolymers of tetrafluoroethylene and hexafluoropropylene, or any of the fluorocarbon materials controlled for export by ECCN 1754A(a)(2) and designed for operating (working) pressures of 210.9 kg/cm^2 (3,000 psi) or greater, whether or not specially processed to make the flow surfaces electrically conductive

7. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1353A is amended by revising the heading; by revising the *GFW Eligibility* paragraph; by adding a "List of Equipment Controlled by ECCN 1353A" after the *GFW Eligibility* paragraph; by adding a Note 1 after the List; by revising the Advisory Note and redesignating it as Advisory Note 2; and by revising the Advisory Note for the People's Republic of China and redesignating it as "(Advisory) Note 3 for the People's Republic of China", as follows:

1353A Manufacturing and testing equipment for optical fiber, optical cable and other cables, as follows, and specially designed components and "specially designed software" therefor

* * * * *

GFW Eligibility: Commodities that meet the technical specifications described in *Advisory Note 2* under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c).

List of Equipment Controlled by ECCN 1353A

(a) Equipment specially designed to manufacture cable controlled by ECCN 1526A (a) or (e);

(b) Equipment specially designed to manufacture optical fiber or optical cable controlled by ECCN 1526A;

(c) Equipment specially designed to manufacture optical preforms controlled by ECCN 1767A;

(d) Optical fiber and preform characterization equipment using semiconductor lasers for the testing of optical fibers or optical preforms at operating wavelengths exceeding 850 nm;

Note: The status of optical fiber and optical preform characterization equipment that contains lasers is defined in this ECCN;

Note 1: This ECCN does not control equipment specially designed for the manufacture of cable controlled by ECCN 1526A(b).

(Advisory) Note 2: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of equipment specially designed for the insertion of optical fibers in an optical cable controlled by ECCN 1526A(c).

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of equipment specially designed for the manufacture of silicon-based optical fiber or cable, provided it is designed to produce non-militarized silicon-based optical fiber or cable that is optimized to operate at a wavelength of 1,370 nm or less and has been commercially available before May 1, 1985.

8. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1355A is amended by removing the *GFW Eligibility* paragraph; by removing the Advisory Note that appears after paragraph (b)(1)(iii)(*f*); by revising paragraph (b)(1)(iii)(*f*)(*2*); by revising paragraphs (b)(2), (c), (d), (g), (o) and (v) of the Advisory Note for the People's Republic of China and redesignating it as "(Advisory) Note 1 for the People's Republic of China"; and by revising the final Note and redesignating it as "(Advisory) Note 2 for the People's Republic of China", as folows:

1355A Equipment for the manufacture of testing of electronic components and materials; and specially designed components, accessories, and "specially designed software" therefore

* * * * *

List of Equipment Controlled by ECCN 1355A

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(*f*) * * *

(*2*) Capable of operation at pressures above 2.5×10^5 pascal (2.5 atmospheres absolute) or below 1×10^5 pascal (1 atmosphere absolute);

* * * * *

(Advisory) Note 1 for the People's Republic of China: * * *

(b) Crystal pullers, *except* those that:

(1) * * *

(2) Operate at pressures above 2.5×10^5 pascals (2.5 atmosphere absolute) and have any of the following features:

(i) Two or more temperature zones;

(ii) "Stored program controlled";

(iii) Anomaly shape control;

(iv) Produce ingots of more than 50.8 mm (2 inches) in diameter; *or*

(v) Produce ingots of more than 1 kg in mass;

Note: No process technology to be supplied.

(c) Diffusion furnaces, *except* those that use computer feedback control operated from an "associated" computer.

Note: "Associated" with equipment or systems means:

(a) Can feasibly be either:

(i) Removed from the equipment or systems; *or*

(ii) Used for other purposes; *and*

(b) Is not essential to the operation of such equipment or systems.

(d) Vacuum induction-heated zone refining equipment;

* * * * *

(g) Ion implantation, ion-enhanced or photo-enhanced diffusion equipment, *except* those having any of the following characteristics:

(1) Patterning capability;

(2) Accelerating voltage for more than 200 keV; *or*

(3) Capable of high energy oxygen implant into a heated substrate;

* * * * *

(o)(1) Photo-optical contact and proximity mask align and expose equipment defined in Note 4(f);

(2) Projection aligners, defined in Note 4(f), provided such equipment cannot produce pattern sizes finer than 3 micrometers;

(3) Wafer steppers, defined in Note 4(h), provided they have all of the following characteristics:

(i) Cannot produce pattern sizes finer than 3 micrometers;

(ii) An alignment accuracy no better than ±0.25 micrometers (3 sigma); *and*

(iii) Machine-to-machine overlay no better than ±0.3 micrometers;

* * * * *

(v) "Stored program controlled" equipment for the functional testing (truth table) of integrated circuits or integrated circuit assemblies capable of either:

(1) Generating a basic pattern rate of 10 MHz or less; *or*

(2) Generating a basic pattern rate of more than 10 MHz but no more than 20 MHz and limited to testing integrated circuits with 64 or fewer pins.

(*Advisory*) **Note 2 for the People's Republic of China:** Favorable consideration may be given for export to satisfactory end-users in the People's Republic of China of equipment controlled for export by paragraphs (b) (1) or (2) of the "List of Equipment Controlled by ECCN 1355A" that can etch or produce patterns finer than 3 micrometers but not finer than 2 micrometers.

9. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1357A is amended by revising the heading and by revising paragraph (c), as follows:

1357A Equipment for the production of fibers controlled by export by ECCN 1763A or their composites, and specially designed components and accessories and "specially designed software" therefor

* * * * *

List of Equipment Controlled by ECCN 1357A

(c) Multidirectional, multidimensional weaving machines and interlacing machines, including adapters and modification kits, for weaving, interlacing or braiding fibers to manufacture composite structures, *except* textile machinery that has not been modified for the above end-use;

* * * * *

10. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), a new ECCN 1388A is added (between ECCN 1385A and 1391A), reading as follows:

1388A Specially designed equipment for the deposition, processing and in-process control of inorganic overlays, coatings and surface modifications, for non-electronic substrates by processes defined in the Table in Supplement No. 4 to Part 379 and specially designed automated handling, positioning, manipulation and control components, and "specially designed software" therefor

Controls for ECCN 1388A

Unit: Report in "$ value."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: National security.

Special Licenses Available: See Part 373.

List of Equipment Controlled by ECCN 1388A

(a) "Stored program controlled" "chemical vapor deposition" (CVD) production equipment with both of the following:

(1) Process modified for one of the following:

(i) Pulsating CVD;

(ii) Controlled nucleation thermal decomposition (CNTD); *or*

(iii) Plasma enhanced or plasma assisted CVD; *and*

(2) Any of the following:

(i) Incorporating high vacuum (less than or equal to 10^{-7} atm) rotating seals;

(ii) Operating at reduced pressure (less than 1 atm); *or*

(iii) Incorporating in situ coating thickness control;

(b) "Stored program controlled" "ion implantation" production equipment having beam currents of 5 mA or higher;

(c) "Stored program controlled" "electron beam physical vapor deposition" (EB–PVD) production equipment with either of the following characteristics:

(1) Incorporating power systems greater than 80 kW; or

(2) (i) Having power systems greater than 50 kW; *and*

(ii) Having both of the following characteristics:

(A) Incorporating a liquid pool level laser control system that regulates precisely the ingots feed rate; *and*

(B) Incorporating a computer controlled rate monitor operating on the principle of photo-luminescence of the ionized atoms in the evaporant stream to control the deposition rate of a coating containing two or more elements;

(d) "Stored program controlled" "plasma spraying" production equipment having any of the following characteristics:

(1) Operating at atmospheric pressure discharging molten or partially molten material particles into air or inert gas (shrouded torch) at nozzle exit gas velocities greater than 750 m/sec calculated at 293 K at 1 atmosphere;

(2) Operating at reduced pressure controlled atmosphere (less than or equal to 100 millibar (0.1 atm) measured above and within 30 cm of the gun nozzle exit) in a vacuum chamber capable of evacuation down to 10^{-4} millibar prior to the spraying process; *or*

(3) Incorporating in situ coating thickness control;

(e) "Stored program controlled" "sputter deposition" production equipment capable of current densities of 5 mA/cm^2 or higher at a deposition rate of 10 micrometers/hr or higher;

(f) "Stored program controlled" "cathodic arc deposition" production equipment with either of the following characteristics:

(1) Incorporating target areas larger than 45.6 cm^2; *or*

(2) Incorporating a magnetic field steering control of the arc spot on the cathode;

(g) Deposition process or surface modification equipment for "stored program controlled" production processing that enables the combining of individual deposition processes controlled for export by paragraphs (a) through (f) of this ECCN so as to enhance the capability of such individual processes.

Technical Notes: 1. For the definitions of the coating processes specified in paragraphs (a) through (g) of the List of Equipment, see the Table in Supplement No. 4 to Part 379.

2. Coating processes include original coating as well as coating repair and refurbishing.

3. For coating technical data, see the Table in Supplement No. 4 to Part 379. Although the equipment for "electrophoretic deposition", "pack cementation" and "slurry deposition" processes is not considered sensitive because of its universal use, the technical data for use of this equipment, as identified in the Table in Supplement No. 4 to Part 379, remains controlled for export.

4. For the definition of "stored program controlled", see ECCN 1355A.

5. The status of coating and surface modification equipment for non-electronic substrates using lasers is defined in this ECCN.

Note: Reserved.

11. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1391A is amended by adding two Notes after the *Special Licenses Available* paragraph; by removing the *GFW Eligibility* paragraph; by revising the heading of the "List of Equipment Controlled"; by removing the undesignated note following paragraph (a); by revising paragraph (a)(1) as set forth below; by adding a Note after paragraph (a)(4) as set forth below; by revising paragraphs (a) (9), (10) and 11 as set forth below; by revising the introductory text of paragraph (b), Note 2 following the introductory text of paragraph (b), paragraphs (b) (2), (b) (4), (5) and (6), paragraphs (b)(7), (b)(7) (ii) and (v) and adding a Note after (b)(7) (vi) as set forth below: by revising paragraph (c) as set forth below; by revising paragraph (a) of Note 1—"Definitions of the terms used in this ECCN 1391A" as set forth below; and by removing Advisory Note 2 and redesignating the "*Advisory Note for the People's Republic of China*" as "*Advisory Note 2 for the People's Republic of China*".

1391A "Robots", "robot controllers and "robot" end-effectors; and specially designed components therefor.

* * * * *

Notes: 1. Mechanical structures for "robots" are included in specially designed components for the above.

2. For simulation "software" used in the evaluation, design and optimization of robotic systems, see Supplement No. 3 to Part 379.

* * * * *

List of Equipment Controlled by ECCN 1391A

* * * * *

(a) "Robots" having any of the following characteristics:

(1) Capable of employing feedback information in "real-time processing" from one or more" "sensors" to generate or modify "programs" or to generate or modify numerical program data;

Notes: 1. This paragraph (a) does not control "robots" capable of using information derived only from "sensors" that can be used to measure:

(a) The internal state of the "robot", i.e., velocity, position (by other than inertial position measuring systems), drive motor current or voltage, fluid or gas pressure or temperature;

(b) Through-the-arc current (or voltage) for weld seam tracking; *or*

(c) Binary or scalar values for:

(1) Determining the position of the "robot" relative to a work piece;

(2) Tool drive motor voltage or current or hydraulic/pneumatic pressure for determination of force or torque; *or*

(3) External safety functions.

2. This paragraph (a) does not control "robots" capable of using information derived only from vision system limited as follows":

(a) Capable of processing no more than 100,000 pixels using an industrial television camera, or no more than 65, 536 pixels using a solid-state camera;

(b) Using a single-scene analysis processor having neither a word size of more than 16-bit (excluding parity bits) nor parallel processing for the same task;

Note: Systems with a 16-bit word length and not more than a 32-bit architecture are regarded as 16-bit systems for the purposes of this paragraph.

(c) "Software" not capable of full three-dimensional mathematical modeling or full three-dimensional scene analysis;

Note: This scene analysis limitation precludes neither approximation of the third dimension by viewing at a given angle, nor limited gray scale interpretation for the perception of depth or texture for the approved tasks (2½ D);

(d) Having no "user-accessible programmability" other than by input reference images through the system's camera; *or*

(e) Capable of no more than one scene analysis every 0.1 second.

3. This paragraph (a) does not control "robots" capable of using information derived only from "end-effectors" not controlled by paragraph (c) of this ECCN.

4. "Software" provided for "robots" released by Notes 2 or 3 shall be in "object code" only.

5. Documentation provided for "robots" released by Notes 2 or 3 shall not exceed that necessary to perform the operation, repair or maintenance of the "robot".

* * * * *

Note: For underwater manipulatory mechanisms, see ECCN 1417A.

* * * * *

(9) Equipped with "robot" manipulatory arms that contain fibrous and filamentary materials controlled by ECCN 1763A;

(10) Equipped with precision measuring devices controlled by ECCN 1532A; *or*

(11) Specially designed to move autonomously its entire structure through three-dimensional space in a simultaneously coordinated manner, *except* systems in which the "robot" moves along a fixed path;

Note: * * *

(b) Electronic controllers for "robots" having any of the following characteristics:

Notes: 1. * * *

2. For "digital computers" not "embedded" in controllers, see ECCN 1565A.

(1) * * *

(2) Minimum programmable increment less (finer) than 0.001 mm per linear axis;

(3) * * *

(4) Capable of being programed by means other than lead-through, key-in (i.e., without processing, on-line or off-line) or teach-pendant techniques;

(5) Word size exceeds 16 bit (excluding parity bits);

Note: Systems with a 16-bit word length and not more than a 32-bit architecture are regarded as 16-bit systems for the purposes of this paragraph;

(6) Incorporating interpolation algorithms for an order of interpolation higher than two;

(7) Generation or modification of the programmed path, velocity and functions other than the following, by on-line, "real-time processing":

(i) * * *

(ii) Linear, rotary or Cartesian offset;

* * * * *

(v) Fixed cycles (e.g., macro instructions or pre-programmed sub-routines) *or*

(vi) Key-in or teach-in modifications;

Note: Paragraph (b)(7) does not control controllers limited to operations with

"robots" described in Notes 1, 2, or 3 to paragraph (a)(1).

(c) "End-effectors" having any of the following characteristics:

(1) Having integrated computer-aided data processing, *except* those using "sensors" used to measure the parameters or values specified in Note 1 to paragraph (a)(1);

(2) Equipped with an integral interface that meets or exceeds ANSI/IEEE Standard 488-1978, IEC publication 625-1, or any equivalent standard for parallel data exchange;

(3) Having any of the characteristics in (a)(2) to (8) and (a)(10).

Notes: 1. Definitions of the terms used in this ECCN:

(a) For the purposes of this ECCN, a "robot" is a manipulation mechanism that may be of the continuous path or of the point-to-point variety, may use "sensors", and has all the following characteristics:

(1) Is multifunctional;

(2) Is capable of positioning or orienting material, parts, tools or special devices through variable movements in three dimensional space;

(3) Incorporates three or more closed or open loop servo-devices that may include stepping motors; *and*

(4) Has "user-accessible programability" by means of teach/playback method or by means of an electronic computer that may be a programable logic controller, i.e., without mechanical intervention.

* * * * *

12. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), ECCN 1485A is amended by revising the heading of the entry; by revising the heading of the list of equipment controlled; by revising paragraphs (b), (d), and (j) to read as set forth below; and by removing the (Advisory) Note that appears at the end of the entry.

1485A Compasses, gyroscopes (gyros), accelerometers and inertial equipment and specially designed components and "specially designed software" therefor. (See also ECCN 1385A.)

* * * * *

List of Compasses, Gyroscopes, Accelerometers, Inertial Equipment, and "Specially Designed Software" Controlled by ECCN 1485A

* * * * *

(b) Integrated flight instrument systems that include gyrostabilizers or automatic pilots for aircraft and specially designed integration "software" therefor, *except*:

(1) Flight instrument systems integrated solely for VOR/ILS navigation and approaches; or

(2) Integrated flight instrument systems that:

(i) Have been in normal civil use for more than two years; *and*

(ii) Are standard equipment and "software" of aircraft excluded from control under ECCN 1460A;

* * * * *

(d) Gyro-stabilizers used for purposes other than aircraft control, *except*:

(1) Those for stabilizing an entire surface vessel; or

(2) Those that have been in normal civil use for more than two years;

* * * * *

(j) Specially designed test, calibration and alignment equipment for commodities controlled by any of the above paragraphs.

* * * * *

Dated: September 12, 1988.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 88-21024 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Parts 379 and 399

[Docket No. 80980-8180]

Revisions to the Commodity Control List Based on COCOM Review: Metals, Minerals and Their Manufactures; Chemicals, Metalloids, Petroleum Products and Related Materials

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final Rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends various Export Control Commodity Numbers on the CCL in Commodity Group 6 (Metals, Minerals and Their manufactures) and in Commodity Group 7 (Chemcials, Metalloids, Petroleum Products and Related Materials). This rule also amends the licensing requirements for technical data related to certain commodities in Group 7.

These revisions have resulted from a review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM). Such multilateral controls restrict the availability of strategic items to controlled countries. With the concurrence of the Department of Defense, the Department of Commerce has determined under the Export Administration Act, as amended, that this rule is necessary to protect U.S. national security interests.

EFFECTIVE DATE: This rule is effective September 15, 1988.

FOR FURTHER INFORMATION CONTACT: For questions of a technical nature on Metals, Minerals and Their Manufactures, call Jeff Tripp, Office of Technology and Policy Analysis, Telephone: (202) 377-1309.

For questions of a technical nature on Chemicals, Metalloids, Petroleum Products and Related Materials, call Jeff Tripp, Office of Technology and Policy Analysis, Telephone: (202) 377-1309.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

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

2. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

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

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(c) of the EAA does not require that this rule be published in proposed form because this rule implements regulatory changes based on review in COCOM. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 379 and 399.

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, Parts 379 and 399 of the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citations for Parts 379 and 399 are revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981, by Pub. L. 100–418 of August 23, 1988 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36891, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 379—AMENDED

2. Section 379.4 is amended by removing the word "and" at the end of paragraph (d) (20); by redesignating the current (d) (21) as (d)(22); and by adding new paragraph (d)(21) as follows:

§ 379.4 General License GTDR.

* * * * *

(d) * * *

(21) Technical data for fibrous and filamentary materials and for composite structures and laminates as specified in paragraph (5) of Supplement No. 4 to Part 379.

* * * * *

Supplement No. 4 to Part 379 [Amended]

3. Supplement No. 4 to Part 379, "Additional Specifications for Certain Technical Data Requiring a Validated License to All Destinations Except Canada," is amended by adding at the end of the Supplement a new paragraph (5), reading as follows:

* * * * *

(5) The following technical data related to commodities controlled by ECCN 1763A requires a validated license to all destinations, except Canada:

Technical data for "fibrous and filamentary" materials and for "composite" structures and laminates, as follows:

Technical data unique to the spinning and subsequent treatment of precursor materials into fibers specially designed for processing into carbon filamentary materials controlled for export by paragraphs (a) or (b) of ECCN 1763A;

Technical data for the production of "fibrous and filamentary" materials controlled for export by paragraphs (a) or (b) of ECCN 1763A;

Technical data for the production of prepegs controlled for export by paragraph (c) of ECCN 1763A using pressure impregnation or chemical vapor deposition, and for preforms controlled by paragraph (c) of ECCN 1763A using vacuum or pressure impregnation or chemical vapor deposition;

Technical data for the development and production of composite structures, laminates and manufactures controlled for export by paragraph (d) of ECCN 1763A; *or*

Technical data for rigidization and densification processes specially designed for the manufacture of carbon-carbon composite materials as follows:

(i) Impregnation, infiltration or deposition into "carbon fiber preforms";

(ii) Carbonization;

(iii) Graphitization;

(iv) Hot isostatic pressing.

PART 399—AMENDED

Supplement No. 1 to § 399.1 [Amended]

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCNs 1603A, 1649A, 1658A, 1670A, 1671A, and 1674A are removed.

5. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals, and Their Manufactures), ECCN 1635A is amended by revising the heading and the "List of Items Controlled by ECCN 1635A" to read as follows:

1635A Steel alloys in crude or semi-fabricated form as listed in this entry.

* * * * *

List of Items Controlled by ECCN 1635A

Steel alloys in crude or semi-fabricated form, which contain all of the following major alloy elements in the amounts listed:

(a) 4.5 to 5.95% nickel by weight;

(b) 0.3 to 1.0% chromium;

(c) 0.2 to 0.75% molydbenum;

(d) 0.04 to 0.15% vanadium;

(e) Less than 0.19% carbon.

6. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals, and Their Manufactures), ECCN 1648A is amended by removing paragraph (a); by redesignating paragraph (b) as (a); and by redesignating (c) as (b).

7. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), Export Control Commodity Number (ECCN) 1661A is amended by removing paragraph (a); by redesignating paragraph (b) as (a); by redesignating paragraph (c) as (b); and by adding paragraph (c), as follows:

1661A Nickel-based alloys (i.e., containing a higher percentage by weight of nickel than of any other element).

Controls for ECCN 1661A

* * * * *

List of Characteristics of Nickel-based Alloys Controlled by ECCN 1661A

* * * * *

(c) Containing 10 weight % or more of aluminum in the form of nickel aluminide in crude or semi-fabricated forms and scrap thereof.

* * * * *

8. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCN 1672A is amended by revising the heading to read as follows:

1672A Titanium-based alloys containing 12 weight % or more of aluminum in the form of titanium aluminide in crude or semi-fabricated forms and scrap thereof.

* * * * *

9. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1733A is amended by revising paragraphs (a), (b) and (c), the Notes, and the Technical Notes to read as follows:

1733A Base materials, non-"composite" ceramic materials, ceramic-ceramic "composite" materials, and precursor materials for the manufacture of high temperature fine technical ceramic products.

Controls for ECCN 1733A

* * * * *

List of base materials, non-composite ceramic materials, ceramic-ceramic composite materials, and precursor materials for the manufacture of high temperature fine technical ceramic products controlled by ECCN 1733A.

(a) Base materials having all the following characteristics:

(1) Any of the following compositions:

(i) Single or complex oxides of zirconium, and complex oxides of silicon and aluminum;

(ii) Single or complex borides of zirconium;

(iii) Single or complex carbides of silicon or boron; *or*

(iv) Single or complex nitrides of silicon, boron, aluminum, or zirconium;

(2) Total metallic impurities, excluding intentional additions, of less than:

(i) 1,000 ppm for single oxides or carbides; *or*

(ii) 5,000 ppm for complex compounds, single borides or single nitrides; *and*

(3) Average particle size less than or equal to 5 micrometers and no more than 10% of the particles larger than 10 micrometers.

Note.—For zirconia, these limits are 1 micrometer and 5 micrometers, respectively.

(b) Non-"composite" ceramic materials in crude or semi-fabricated form composed of the materials controlled by paragraph (a) above, except abrasives;

(c) Ceramic-ceramic "composite" materials containing finely dispersed particles or phases or any non-metallic fibrous or whisker-like materials, whether externally introduced or grown in situ during processing, where the following materials form the host "matrix":

(1) All oxides, including glasses;

(2) Carbides or nitrides of silicon or boron;

(3) Borides or nitrides of zirconium or borides, carbides or nitrides of hafnium; *or*

(4) Any combination of the materials enumerated in paragraphs (c) (1) through (3) above.

Note.—This paragraph (c) does not control manufactured products or components not controlled elsewhere in the Commodity Control List.

(d) * * *

Technical Note: For the purpose of this ECCN:

(a) A "matrix" is defined as a substantially continuous phase that fills the space between particles, whiskers or fibers;

(b) A "composite" is defined as a "matrix" and an additional phase or additional phases consisting of particles, whiskers, fibers or any combination thereof, present for a specific purpose or purposes.

Notes.—1. For compounds of hafnium, see also § 370.10(e) and ECCN 3608A.

2. For compounds of tantalum, see also ECCN 1760A.

3. For carbon-carbon materials, see ECCN 1763A.

10. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Matalloids, Petroleum Products and Related Materials), ECCN 1746A is amended by adding a new paragraph (k) and a new paragraph (1) to read as follows:

§ 1746A Polymeric substances and manufactures thereof, as described in this entry.

Controls for ECCN 1746A

* * * * *

List of Polymeric Substances and Manufactures Controlled by ECCN 1746A

* * * * *

(k) Butadiene polymers, as follows:

(1) Carboxyl terminated polybutadienes (CTPB); Hydroxyl terminated polybutadienes (HTPB); Thiol terminated polybutadienes (TTPB); Vinyl terminated polybutadienes (VTPB); Cyclized 1-2 polybutadiene;

(2) Moldable copolymers of butadiene and acrylic acid;

(3) Moldable terpolymers of butadiene, acrylonitrile and acrylic acid or any of the homologs of acrylic acid;

(1) Carboxyl terminated polysioprene.

* * * * *

11. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1755A is amended by removing the *GFW Eligibility* paragraph and the Advisory Note, by adding "(298 K)" after "25 °C" and before the semicolon in paragraph (a) and by revising paragraph (b) to read as follows:

§ 1755A Silicone fluids and greases as described in this entry.

List of Silicone Fluids and Greases Controlled by ECCN 1755A

* * * * *

(b) Silicone and fluorinated silicone lubricating greases capable of operating at temperatures of 205 °C (400 °F, 478 K) or higher and having a drop point (method of test being ASTM or ITP) of 220 °C (428 °F, 493 K) or higher.

(For hydraulic fluids * * *)

* * * * *

12. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1757A is amended by revising paragraph (a) to read as set forth below, by removing Advisory Note 1 and redesignating Advisory Notes 2 and 3 as Advisory Notes 1 and 2.

1757A Compounds and materials as described in this entry.

* * * * *

List of Compounds and Materials Controlled by ECCN 1757A

(a) Monocrystalline silicon, *except:*

(i) Metallurgical-grade monocrystalline silicon having a purity not better than 99.97%; *or*

(ii) Monocrystalline silicon having a purity not better than 99.999% and containing at least 0.5 part in 10^6 each of iron, carbon, boron and phosphorus, plus other impurities.

* * * * *

13. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1760A is amended by revising the heading and by removing paragraphs (a) and (b) as follows:

1760A Tantalates and niobates having a purity of 99% or better *except* fluorotantalates.

* * * * *

14. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1763A is amended by revising the heading; by revising paragraphs (a), (c) and (d); by adding paragraph (b)(2)(iii) and a paragraph (e) designated *"Reserved."*; by revising Technical Notes 1, 3, and by adding Technical Notes 4 and 5; and by adding Notes 1, 2 and 3, following the Technical Notes to read as follows:

1763A Fibrous and filamentary materials that may be used in organic "matrix", metallic "matrix" or carbon "matrix" composite structures or laminates, and such composite structures and laminates and "specially designed software" therefor.

* * * * *

List of Materials Controlled by ECCN 1763A

(a) Fibrous and filamentary materials with "specific modulus" greater than 3.18×10^6 m (1.25×10^8 in) and "specific tensile strength" greater than 7.62×10^4 m (3×10^6 in), *except* silicate glass fibers;

(b) * * *

(1) * * *

(2) * * *

(iii) Molybdenum and molybdenum alloy fibers;

(c) Resin or pitch-impregnated fibers (prepregs), metal or carbon-coated fibers (preforms) or "carbon fiber preforms" made with materials controlled by paragraphs (a) or (b) above;

(d) Composite structures, laminates and manufactures thereof for products and components made either with an organic "matrix", a carbon "matrix" or a metal "matrix" utilizing materials controlled by paragraphs (a), (b) or (c) above;

Note.—This paragraph (d) does not control manufactured products or composites not controlled elsewhere in the Commodity Control List.

(e) *Reserved.*

Technical Notes:

1. The term "fibrous and filamentary materials" includes:

(a) Continuous monofilaments;

(b) Continuous yarns and rovings;

(c) Tapes, fabrics, random mats and braids;

(d) Chopped fibers, staple fibers and coherent fiber blankets;

(e) Whiskers, either monocrystalline or polycrystalline, of any length.

2. * * *

3. "Specific tensile strength" is ultimate tensile strength in pascals, equivalent to N/m^2 (lbs force/sq. in) divided by specific weight in N/m^3 (lbs force/cu. in) measured at a temperature of (296±2) K ((23±2) °C) ((73.4±3.6) °F) and a relative humidity of (50±5)%.

4. A "carbon fiber preform" is defined as an ordered arrangement of uncoated or coated fibers intended to constitute a framework of a part before the "matrix" is introduced to form a composite.

5. For the purpose of this ECCN:

(a) A "matrix" is defined as a substantially continuous phase that fills the space between particles, whiskers or fibers;

(b) A "composite" is defined as a "matrix" and an additional phase or additional phases consisting of particles, whiskers, fibers or any combination thereof, present for a specific purpose or purposes.

Notes.—1. For equipment used for the production of materials controlled for export by this ECCN, see ECCNs 1203A, 1312A, and 1357A.

2. For coating technologies, see Supplement No. 4 to Part 379.

3. For carbon-bonded thermal insulating material, see ECCN 1734A.

* * * * *

Dated: September 12, 1988.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 88-21025 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-DT-M

RAILROAD RETIREMENT BOARD

20 CFR Parts 243, 262, 295 and 350

Transfer, Assignment, or Waiver of Payments

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby amends its regulations with respect to the transfer or assignment of benefits and waiver of benefits under the Railroad Retirement Act. By adding Part 243 to its regulations, the Board consolidates in one part the restrictions on transfer, assignment, and waiver of benefits under the Railroad Retirement Act.

EFFECTIVE DATE: September 15, 1988.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4929 (FTS 386-4929).

SUPPLEMENTARY INFORMATION: Benefits paid by the Board are generally exempt from attachment, assignment, or other legal process. However, most such benefits are subject to legal process in satisfaction of a support or alimony obligation in accord with Part 350 of the Board's regulations.

On June 14, 1988, the Board published Part 243 as a proposed rule (53 FR 22184) and invited comments for 30 days ending July 14, 1988. No comments were received.

Certain portions of annuities paid by the Board under the Railroad Retirement Act are subject to property divisions set forth in state court decrees and court-approved property settlements in accord with Part 295 of the regulations. Although annuities paid under the Railroad Retirement Act are subject to Federal income tax and a portion of certain annuities computed under the social security overall minimum provision of the Railroad Retirement Act may be assigned, the Board's regulations pertaining to these matters do not currently so state and are thus out of date. The Board's regulations also provide for waiver of receipt of annuity payments at Part 262. Accordingly, the Board in this Part consolidates references to Parts 262, 295 and 350, and adds regulations concerning the taxation of annuities and the assignment of the amount or a portion of the amount payable under the social security overall minimum provision.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory analysis is required. There are no information collections associated with this proposed rule within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects

20 CFR Part 243

Railroad employees, Railroad retirement.

20 CFR Part 262

Railroad employees, Railroad retirement.

20 CFR Part 295

Railroad employees, Railroad retirement.

20 CFR Part 350

Railroad employees, Railroad retirement.

1. The Board's regulations under the Railroad Retirement Act (20 CFR Parts 200-299) are hereby amended by adding thereto a new Part 243 to read as follows:

PART 243—TRANSFER, ASSIGNMENT, OR WAIVER OF PAYMENTS

Sec.

243.1 Prohibition against garnishment.
243.2 Legal process for the enforcement of child support and alimony obligations.
243.3 Payments pursuant to court decree or court-approved property settlement.
243.4 Taxation of benefits.
243.5 Assignment of a portion of an annuity paid under the social security overall minimum provision.
243.6 Waiver of annuity payments.

Authority: 45 U.S.C. 231f(b)(5).

§ 243.1 Prohibition against garnishment.

Except as hereinafter provided in this Part, no benefits paid under the Railroad Retirement Act are assignable or subject to any tax or to garnishment, attachment, or other legal process (including any order issued by any court in connection with a bankruptcy proceeding), nor shall any payment be anticipated.

§ 243.2 Legal process for the enforcement of child support and alimony obligations.

Benefits paid by the Board are subject to legal process brought for the enforcement of legal obligations to provide child support or to make alimony payments, as provided in Part 350 of this chapter.

§ 243.3 Payments pursuant to court decree or court-approved property settlement.

Certain annuity components are subject to division pursuant to a court decree or to a court-approved property settlement incident to any such decree, as provided in Part 295 of this chapter.

§ 243.4 Taxation of benefits.

(a) Annuities paid by the Board are subject to Federal income tax in accord with the Internal Revenue Code. The annuity portion equivalent to the amount of the benefit that the person would have actually received under the Social Security Act if railroad service had been creditable under that Act is treated for Federal income tax purposes the same way as a social security benefit. Annuity payments computed under the social security overall minimum provision contained in section 3(f)(3) of the Railroad Retirement Act (see § 243.5 of this Part) are also treated as social security benefits for Federal income tax purposes. Railroad retirement annuity amounts exceeding social security equivalent payments, vested dual benefits, and supplemental annuities are taxed in the same manner as benefits provided under an employer plan which meets the requirements of section 401(a) of the Internal Revenue Code.

(b) Pursuant to section 14 of the Railroad Retirement Act, no annuity or supplemental annuity, in whole or in part, is subject to any tax by any state or any political subdivision thereof.

§ 243.5 Assignment of a portion of an annuity paid under the social security overall minimum provision.

Section 3(f)(3) of the Railroad Retirement Act, the social security overall minimum provision, guarantees that an annuitant will receive, in combined benefits under the Railroad Retirement and Social Security Acts, not less than the amount which would have been paid to the employee and to members of his or her family under the Social Security Act if the employee's railroad service had been creditable under that Act. An annuitant whose annuity is computed under that provision may assign all or any portion of that annuity to any of the members of his or her family who are or who could be included in the computation of the annuity. Any assignment issued pursuant to this section will terminate:

(a) When revoked by the annuitant by notification to the Board; or

(b) When the annuity is no longer computed under the social security overall minimum provision.

§ 243.6 Waiver of annuity payments.

(a) Any individual who has been awarded an annuity under the Railroad Retirement Act shall have the right to waive such annuity in whole or in part by filing with the Board a statement to that effect signed by him or her.

(b) Such a waiver shall be effective as of the date specified in the waiver statement, except that if an annuity has been awarded, a waiver shall not be effective before the first day of the month after the month in which the waiver form is received at an office of the Board and shall not be effective as to any annuity payment which has already been made or which cannot be prevented.

(c) For the period during which a waiver is in effect, no payment of the amount of the annuity waived can ever be made to any person. A waiver of an annuity shall not, however, have any effect on the amount of a spouse's annuity otherwise payable or on a lump sum under section 6(c) of the Act otherwise due, nor shall it serve to make an individual eligible for a lump-sum death benefit under section 6(b) of the Act or any insurance benefit under the Social Security Act on the basis of the wages of the same deceased employee.

(d) A waiver once made shall continue in effect until the annuitant requests in writing that it be terminated.

PART 262—MISCELLANEOUS

2. The authority citation for Part 262 is revised to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 231n.

3. The table of contents for Title 20, Chapter II, Subchapter A, Part 262, is amended by removing "262.5 Exemption.", "262.6 Waiver; statutory provisions.", and "262.7 Waiver of annuity of pension payments."

§§ 262.5, 262.6 and 262.7 [Removed]

4. Part 262 is amended by removing §§ 262.5, 262.6, and 262.7 thereof.

PART 295—PAYMENTS PURSUANT TO COURT DECREE OR COURT-APPROVED PROPERTY SETTLEMENT

5. The authority for Part 295 continues to read as follows:

Authority: 45 U.S.C. 231f; 45 U.S.C. 231m.

§ 295.5 [Amended]

6. Section 295.5(e)(2) is amended by striking "262.6" and substituting therefore "243.6".

PART 350—GARNISHMENT OF BENEFITS PAID UNDER THE RAILROAD RETIREMENT ACT, THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND UNDER ANY OTHER ACT ADMINISTERED BY THE BOARD

7. The authority citation for Part 350 continues to read as follows:

Authority: 15 U.S.C. 1673(b)(2); 42 U.S.C. 659, 661, and 662; and 45 U.S.C. 231f(b)(5) and 362(l).

§ 350.1 [Amended]

8. Section 350.1(c) is amended by adding "and Part 295 of this Chapter," after "section,";

§ 350.2 [Amended]

9. Section 350.2(c) is amended by revising the final two sentences to read as follows:

* * * * *

(c) * * * For purposes of this subchapter, legal process additionally includes assignments in lieu of garnishment, but only where grounds for the issuance of legal process in the nature of garnishment exist. Such assignments are revocable.

* * * * *

Dated: September 6, 1988.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 88-20864 Filed 9-14-88; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Exclusion of Certain Support and Maintenance Assistance

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements section 9101 of Pub. L. 100-203, which makes permanent the provisions of section 1612(b)(13) of the Social Security Act (the Act). Section 1612(b)(13) provides that certain support and maintenance assistance not be counted as income when determining an individual's eligibility for and the amount of his or her supplemental security income (SSI) payments.

DATES: This final rule is effective September 15, 1988.

FOR FURTHER INFORMATION CONTACT: Harry Short, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 965-1757.

SUPPLEMENTARY INFORMATION: Section 1612(b)(13) of the Act (42 U.S.C. 1382a), as amended by section 2639(b) of Pub. L. 98-369, provides that certain support and maintenance assistance, including home energy assistance, not be counted as income in determining an aged, blind, or disabled individual's eligibility for or amount of SSI payments. The provisions of section 1612(b)(13) were effective from October 1, 1984, through September 30, 1987.

Under section 1612(b)(13) and our implementing regulation at 20 CFR 416.1157 (published October 29, 1986, 51 FR 39520), in order for the support and maintenance assistance to not be counted as income the appropriate State agency must certify in writing that the support and maintenance assistance is provided on the basis of need and that it is either (1) provided in kind by a private nonprofit agency, or (2) furnished in cash or in kind (i) by a supplier of home heating oil or gas, (ii) by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or (iii) by a municipal utility providing home energy.

The section of our regulations implementing section 1612(b)(13), as amended by section 2639(b), expired September 30, 1987.

We continued the exclusion for support and maintenance assistance under the demonstration project authority of section 1110 of the Act from October 1, 1987, through March 31, 1988, pending legislation that would extend section 1612(b)(13). (See 52 FR 38969, October 20, 1987.) Section 9101 of Pub. L. 100-203, enacted December 22, 1987, made permanent the provisions of section 1612(b)(13), effective retroactively to October 1, 1987.

This regulation amends paragraphs (a) and (c) of § 416.1157 of our regulations to remove references to the expiration date. It does not make any policy changes since none are required by section 9101 of Pub. L. 100-203. These are the only regulatory changes needed to implement section 9101.

The Department, even when not required by statute, as a matter of

policy, generally follows the Administrative Procedure Act (APA) Notice of Proposed Rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an Agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(3)(B), good cause exists for waiver of Notice of Proposed Rulemaking and public comment procedures on this regulation since opportunity for public comment is unnecessary in this case because the statutory provision on which the regulation is based simply makes permanent the exclusion in section 1612(b)(13) and allows for no discretion. Therefore, this rule is being issued as a final rule and will become effective on the date it is published in the **Federal Register.**

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 since the program and administrative costs of this regulation will be insignificant and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no additional reporting and recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

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

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

List of Subjects in 20 CFR Part 416

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

Dated: July 13, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 25, 1988.

Otis R. Bowen,

Secretary of Health and Human Services.

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

PART 416—[AMENDED]

1. The authority citation for Subpart K of Part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154; sec. 2639 of Pub. L. 98-369, 98 Stat. 1144.

§ 416.1157 [Amended]

2. Section 416.1157 is amended by removing "through September 1987" from the first sentence of paragraph (a) and by removing "and before October 1, 1987" from the first sentence of paragraph (c).

[FR Doc. 88-21060 Filed 9-14-88; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Parts 336, 341, and 357

[Docket No. 88N-0070]

Over-the-Counter Drug Products; Final Monographs for Antiemetic, Antitussive, Bronchodilator, and Anthelmintic Drug Products; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations that establish conditions under which over-the-counter (OTC) antiemetic, antitussive, bronchodilator, and anthelmintic drug products are generally recognized as safe and effective and not misbranded. These amendments will update these final monographs by making noncontroversial technical changes that clarify the age ranges for children's dosages. These changes will result in more accurate and consistent OTC drug regulations.

DATES: Effective October 17, 1988; comments by October 17, 1988.

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

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: This document amends four final OTC drug monographs in (1) 21 CFR Part 336 for OTC antiemetic drug products (as set forth in the **Federal Register** of April 30, 1987; 52 FR 15886); (2) 21 CFR Part 341 for OTC antitussive drug products (as set forth in the **Federal Register** of August 12, 1987; 52 FR 30042); (3) 21 CFR Part 341 for OTC bronchodilator drug products; and (4) 21 CFR Part 357, Subpart B for OTC anthelmintic drug products. The amendments revise the wording of the age ranges for children's dosages currently contained in the final monographs, as necessary, to clarify and indicate uniformly that the adult dosages are also for children 12 years of age and over; that the dosages for children 6 years of age and older and for children 6 to 12 years of age are for children 6 years of age to under 12 years of age; and that the dosages for children 2 to 6 years are for children 2 years of age to under 6 years of age. These amendments do not change the actual age ranges specified in the final monographs.

These changes in the current wording of the age ranges for children's dosages are not related to the notice of intent on pediatric dosing information for OTC human drugs published by the agency in the **Federal Register** of June 20, 1988 (53 FR 23180). Any regulatory changes that may result from that notice of intent will be incorporated in the four final OTC drug monographs identified above, in a future issue of the **Federal Register.**

Because these labeling revisions represent minor clarifying changes that do not change the substance of the labeling requirements contained in the final monographs and because OTC drug products on the market may currently be in compliance with the labeling designated in the above-mentioned final monographs, the agency has determined that these labeling revisions do not need to be implemented on the effective date of this final rule, but may be implemented by manufacturers at their next printing of labels for affected products.

The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts.

The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule amending the final OTC monographs for antiemetic, antitussive, bronchodilator, and anthelmintic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking amending the final OTC monographs for antiemetic, antitussive, bronchodilator, and anthelmintic drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

As noted above, these amendments institute changes that are of a nonsubstantive nature. Because the amendments are not controversial and because, when effective, they provide clarification of final OTC drug monographs, FDA finds that the usual notice and comment procedures are unnecessary. The amendments, therefore, shall become effective October 17, 1988. However, interested persons may, on or before October 17, 1988, submit written comments on these amendments to the Dockets Management Branch (address above). Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 336

Labeling, Over-the-counter drugs, Antiemetic drug products.

21 CFR Part 341

Labeling, Over-the-counter drugs, Antitussive drug products, Bronchodilator drug products.

21 CFR Part 357

Labeling, Over-the-counter drugs, Anthelmintic drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 336—ANTIEMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR Part 336 continues to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

2. In Subpart C, § 336.50 is amended by revising paragraphs (d) (1), (2), (3), and (4) to read as follows:

§ 336.50 Labeling of antiemetic drug products.

* * * * *

(d) * * *

(1) *For products containing cyclizine hydrochloride identified in § 336.10(a).* Adults and children 12 years of age and over: Oral dosage is 50 milligrams every 4 to 6 hours, not to exceed 200 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 25 milligrams every 6 to 8 hours, not to exceed 75 milligrams in 24 hours, or as directed by a doctor.

(2) *For products containing dimenhydrinate identified in § 336.10(b).* Adults and children 12 years of age and over: Oral dosage is 50 to 100 milligrams every 4 to 6 hours, not to exceed 400 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 25 to 50 milligrams every 6 to 8 hours, not to exceed 150 milligrams in 24 hours, or as directed by a doctor. Children 2 to under 6 years of age: Oral dosage is 12.5 to 25 milligrams every 6 to 8 hours, not to exceed 75 milligrams in 24 hours, or as directed by a doctor.

(3) *For products containing diphenhydramine hydrochloride identified in § 336.10(c).* Adults and children 12 years of age and over: Oral dosage is 25 to 50 milligrams every 4 to 6 hours, not to exceed 300 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 12.5 to 25 milligrams every 4 to 6 hours, not to exceed 150 milligrams in 24 hours, or as directed by a doctor.

(4) *For products containing meclizine hydrochloride identified in § 336.10(d).* Adults and children 12 years of age and over: Oral dosage is 25 to 50 milligrams once daily, or as directed by a doctor.

* * * * *

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

3. The authority citation for 21 CFR Part 341 continues to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

4. In Subpart C, § 341.74 is amended by revising paragraphs (d)(1) (i), (ii), and (iii) to read as follows:

§ 341.74 Labeling of antitussive drug products.

* * * * *

(d) * * *

(1) *Oral antitussives*—(i) *For products containing chlophedianol hydrochloride identified in § 341.14(a)(1).* Adults and children 12 years of age and over: Oral dosage is 25 milligrams every 6 to 8 hours, not to exceed 100 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 12.5 milligrams every 6 to 8 hours, not to exceed 50 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: Consult a doctor.

(ii) *For products containing codeine ingredients identified in § 341.14(a)(2).* Adults and children 12 years of age and over: Oral dosage is 10 to 20 milligrams every 4 to 6 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 5 to 10 milligrams every 4 to 6 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: Consult a doctor. A special measuring device should be used to give an accurate dose of this product to children under 6 years of age. Giving a higher dose than recommended by a doctor could result in serious side effects for your child.

(iii) *For products containing dextromethorphan or dextromethorphan*

hydrobromide identified in § 341.14(a)(3) and (4). The dosage is equivalent to dextromethorphan hydrobromide. Adults and children 12 years of age and over: Oral dosage is 10 to 20 milligrams every 4 hours or 30 milligrams every 6 to 8 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 5 to 10 milligrams every 4 hours or 15 milligrams every 6 to 8 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children 2 to under 6 years of age: Oral dosage is 2.5 to 5 milligrams every 4 hours or 7.5 milligrams every 6 to 8 hours, not to exceed 30 milligrams in 24 hours, or as directed by a doctor. Children under 2 years of age: Consult a doctor.

* * * * *

5. In Supart C, § 341.76 is amended by revising paragraphs (d)(1), (d)(2)(i)(*a*), and (d)(2)(ii) to read as follows:

§ 341.76 Labeling of bronchodilator drug products.

* * * * *

(d) * * *

(1) *For products containing ephedrine, ephedrine hydrochloride, ephedrine sulfate, or racephedrine hydrochloride identified in § 341.16 (a), (b), (c), and (f).* Adults and children 12 years of age and over: Oral dosage is 12.5 to 25 milligrams every 4 hours, not to exceed 150 milligrams in 24 hours, or as directed by a doctor. Do not exceed recommended dose unless directed by a doctor. Children under 12 years of age: Consult a doctor.

(2) * * *

(i) * * *

(*a*) Inhalation dosage for adults, children 12 years of age and over, and children 4 to under 12 years of age: Start with one inhalation, then wait at least 1 minute. If not relieved, use once more. Do not use again for at least 3 hours. The use of this product by children should be supervised by an adult. Children under 4 years of age: Consult a doctor.

* * * * *

(ii) *For use in a hand-held rubber bulb nebulizer.* The ingredient is used in an aqueous solution at a concentration equivalent to 1 percent epinephrine. Inhalation dosage for adults, children 12 years of age and over, and children 4 to under 12 years of age: 1 to 3 inhalations not more often than every 3 hours. The use of this product by children should be supervised by an adult. Children under 4 years of age: Consult a doctor.

* * * * *

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

6. The authority citation for 21 CFR Part 357 is revised to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

7. In Subpart B, § 357.150 is amended by revising the text of paragraph (d)(1) to read as follows:

§ 357.150 Labeling of anthelmintic drug products.

* * * * *

(d) * * *

(1) Adults, children 12 years of age and over, and children 2 years to under 12 years of age: Oral dosage is a single dose of 5 milligrams of pyrantel base per pound, or 11 milligrams per kilogram, of body weight not to exceed 1 gram. Dosing information should be converted to easily understood directions for the consumer using the following dosage schedule: * * *

* * * * *

Dated: August 17, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–21054 Filed 9–14–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 8229]

Employment Taxes and Collection of Income Tax at Source; Waiver of Employment Tax Return Filing Requirements in Case of Certain No Liability Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that authorize the waiver of employment tax return filing requirements in the case of certain no liability tax returns. This type of waiver is being authorized, because it was determined that such a waiver would result in a saving of resources for both affected employers and the Internal Revenue Service. These regulations affect certain seasonal and intermittent employers.

DATES: The regulations are effective on September 15, 1988. However, no change in filing requirements occurs until revised instructions to a tax return form providing a change are issued.

FOR FURTHER INFORMATION CONTACT: Joel S. Rutstein of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202–566–3297, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Currently, seasonal and intermittent employers must file Form 941 (Employer's Quarterly Federal Tax Return) each calendar quarter regardless of whether wages are paid in that quarter. This is a burden to these employers and a corresponding burden on the Internal Revenue Service in that the Service must expend resources on mailing and processing these "no liability" returns.

Explanation of Provisions

The amendments to the regulations provide that the instructions to an employment tax return form may waive the requirement that the return be filed in the case of certain no liability tax returns. The instructions to Form 941 will be revised to prospectively allow certain seasonal and intermittent employers not to file Forms 941 for quarters in which they pay no wages.

Special Analyses

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for final regulations subject to 5 U.S.C. 553(b)(B). Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Drafting Information

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

List of Subjects in 26 CFR 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social

Security, Unemployment tax, Withholding.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 31 is amended as follows:

Employment Tax Regulations

PART 31—[AMENDED]

Paragraph 1. The authority of Part 31 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. A new § 31.6011 (a)-10 is added to read as follows:

§ 31.6011 (a)-10 Instructions to forms may waive filing requirement in case of no liability tax returns.

Notwithstanding provisions in this part which require that a tax return be filed, the instructions to the form on which a return of tax is otherwise required by this part to be made may waive such requirement with respect to a particular class or classes of no liability tax returns. Returns in a class for which such requirement has been so waived need not be made.

This Treasury decision is not adverse to any taxpayer. For this reason, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: August 22, 1988.

Dennis Earl Ross,

Acting Assistant Secretary of the Treasury.

[FR Doc. 88-20911 Filed 9-14-88; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1299-88]

Office of Special Counsel For Immigration Related Unfair Employment Practices

AGENCY: Office of the Attorney General, Justice.

ACTION: Finale rule.

SUMMARY: This order will amend Part 0 of the Code of Federal Regulations to reflect the existence within the Department of Justice of the Office of Special Counsel for Immigration Related Unfair Employment Practices (Special Counsel). The order will provide the public with an accessible list of the Special Counsel's duties. It is being added to the Code of Federal Regulations in order to reflect accurately the agency's internal management structure.

EFFECTIVE DATE: September 6, 1988.

FOR FURTHER INFORMATION CONTACT: Gaylord D. Draper, Executive Officer, Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, P.O. Box 65490, Washington, DC 20035-5490; (202) 653-8121 or 1-800-255-7688 (voice); (202) 653-5710 (TDD).

SUPPLEMENTARY INFORMATION: This order has been issued to increase efficiency within the Department and is a matter of internal Department management. It does not have a significant economic impact on a substantial number of smaller entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of Executive Order No. 12291.

The Office of Special Counsel investigates and prosecutes charges of unfair immigration-related employment practices under section 102 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, 100 Stat. 3359). The Office of Special Counsel is headed by a Special Counsel for Immigration Related Unfair Employment Practices appointed by the President with the advice and consent of the Senate for a four-year term. The Special Counsel is subject to the general supervision and direction of the Attorney General, the Deputy Attorney General, or designee.

Among the Special Counsel's statutory responsibilities is the investigation of unfair immigration-related employment practices, either on his or her initiative or in response to charges filed with the Office of Special Counsel by aggrieved individuals, their authorized representatives, or officers of the Immigration and Naturalization Service. Where there is reasonable cause to believe that such practices have occurred, the Special Counsel may file a complaint with specially designated administrative law judges within the Office of the Chief Administrative Hearing Officer, Department of Justice. The Special Counsel is also authorized to intervene in proceedings involving complaints brought directly before these administrative law judges. (The statute provides that a charge filed with the Special Counsel may be brought directly before an administrative law judge by a private party, if the Special Counsel fails to file a complaint with an administrative law judge within 120 days of the filing of the charge.) Once the administrative law judge issues a decision, the Special Counsel may seek judicial enforcement of the judge's order in the appropriate federal district court of judicial review of the order in the appropriate federal court of appeals.

The Special Counsel is also directed by the statute to establish any regional offices that may be necessary. The Special Counsel, subject to the approval of the Attorney General, will determine whether, when, and how many regional offices are needed.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Organization and Functions (Government agencies).

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509, 510, 533, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

Part 0—[Amended]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303, 3103; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201, *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 2001-2017p; Pub. L. No. 91-513, sec. 501; EO 11919; EO 11267; EO 11300.

§ 0.1 [Amended]

2. Subpart A, § 0.1 is amended by adding at the end of the list under the heading "Offices" the following:

* * * * *

Office of Special Counsel for Immigration Related Unfair Employment Practices.

3. Part 0 is amended by adding the following Subpart after Subpart V-1:

Subpart V-2—Office of Special Counsel for Immigration Related Unfair Employment Practices

Secs.
0.129 Organization
0.129a Functions
0.129b Redelegation of Authority

Authority: 28 U.S.C. 509, 510; 8 U.S.C. 1324A.

Subpart V-2—Office of Special Counsel for Immigration Related Unfair Employment Practices

§ 0.129 Organization.

The Office of Special Counsel for Immigration Related Unfair Employment Practices shall be headed by a Special

Counsel for Immigration Related Unfair Employment Practices, appointed by the President with the advice and consent of the Senate under section 102 of the Immigration Reform and Control Act of 1986 for a term of four years. The Special Counsel shall be subject to the general supervision and direction of the Attorney General, the Deputy Attorney General, or designee.

0.129a Functions.

The following functions are assigned to and shall be conducted, handled, or supervised by, the Special Counsel for Immigration Related Unfair Employment Practices:

(a) Investigation of charges of unfair immigration-related employment practices filed with the Special Counsel and, when appropriate, the filing of complaints with respect to those charges before a specially designated administrative law judge within the Office of the Chief Administrative Hearing Officer, U.S. Department of Justice.

(b) Investigation on the Special Counsel's own initiative of unfair immigration-related employment practices and, when appropriate, the filing of complaints with respect to those practices before a specially designated administrative law judge within the Office of the Chief Administrative Hearing Officer, U.S. Department of Justice.

(c) Intervention in proceedings involving complaints of unfair immigration-related employment practices that are brought directly before such administrative law judge by parties other than the Special Counsel.

(d) Litigation in district courts for judicial enforcement, and in courts of appeals for judicial review, of orders of administrative law judges regarding unfair immigration-related employment practices.

(e) Establishment of such regional offices as may be necessary.

(f) Such other functions as the Attorney General shall direct.

§ 0.129b Redelegation of authority.

The Special Counsel for Immigration Related Unfair Employment Practices is authorized to redelegate to any of his or her subordinates any of the authority, functions, or duties vested in him or her by this Subpart.

Date: September 6, 1988.

Dick Thornburgh,

Attorney General.

[FR Doc. 88-21035 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of October 1988.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_k are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
*		*		*		*		*			*		*			
October 1988	.10125	.0975	.0925	.0875	.0825	.07625	.07625	.07625	.07625	.07625	.07	.07	.07	.07	.07	.06

Issued at Washington, DC, on this 7th day of September 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-21007 Filed 9-14-88; 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

39 CFR Part 111

Supplements and Enclosures In Second-Class Publications

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Beginning in September 1986, the Postal Service published a series of four proposed rules requesting public comment on issues concerning the mailing of supplements, attachments, and enclosures with second-class mail. This final rule completes this rulemaking series. A number of changes are adopted designed to strike a reasonable balance between the need to accommodate changing commercial practices and the need to maintain the integrity of second-class as a distinctive mail classification reserved for periodical publications. In a number of respects, these changes tighten the qualifications for inclusion of supplements mailable at second-class rates of postage.

EFFECTIVE DATE: December 18, 1988.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Young (202) 268-5321.

SUPPLEMENTARY INFORMATION: The mail classification known as second-class mail, which is limited to periodical publications, historically arose to recognize the public benefits associated with their editorial and educational contributions, factors still recognized by law as warranting special consideration in the establishment of rates of postage (39 U.S.C. 3622(b)(8)), to the continuing benefit of mailers of second-class publications. In recent years, commercial developments promoted to some extent by technological progress have stimulated changes increasingly tending to blur some of the traditional distinctions between periodical publications and other mail matter, particularly advertising publications and other matter entered as third-class mail. The Postal Service and its customers have faced the need to modernize their understanding of the lines separating these types of mail. Existing postal regulations have not been entirely satisfactory. The Postal Service and others have been concerned that adjustments are required to help preserve the integrity of the second-class mail classification in the face of new technology which allows publishers to include various forms of advertising and other materials with regular issues of periodical publications. Of equal concern is the mission of the postal system to serve and promote commercial progress and efficiency, not to inhibit beneficial changes. Reaching an appropriate balance in the many details of the regulations on supplements and enclosures is not an easy matter.

To address these problems, between September of 1986 and March of 1988, the Postal Service published four proposed rules which were intended to elicit public comments on various issues concerning supplements and enclosures in second-class publications. Many helpful comment letters were received. In preparing this final rule, the Postal Service has carefully considered all of the comments, along with the underlying policies of the mail classification structure and the regulations which have governed supplements and enclosures with second-class publications.

A summary of each of the four proposed rules follows:

(1) 51 FR 31673-4 (September 4, 1986). The Postal Service proposed to clarify the existing postal regulations and procedures concerning the mailing of supplements with second-class publications. The proposal included rules which would have allowed the mailing of supplements to bound second-class publications when they are mailed together under the same cover, and prescribed procedures for addressing copies of second-class publications which are enclosed in plastic wrappers with supplements.

(2) 51 FR 44801-3 (December 12, 1986). The Postal Service proposed to redefine and specify more clearly the conditions under which supplements could be mailed at second-class rates, as a result of the comments received on the September 4, 1986 proposal. Based on the comments, the Postal Service had gained an increased awareness of the potential dangers to the preferred status of second-class mail that could come about through indiscriminate use of supplements with second-class publications. Thus, the purpose of the December 12 proposal was to clarify current postal regulations and procedures in order to maintain a clear distinction between second-class and other classes of mail.

(3) 52 FR 27565-9 (July 22, 1987). Because the comments to the December 12, 1986 proposal raised a broad range of issues concerning supplements, the Postal Service provided the mailing industry with a third opportunity to furnish ideas and suggestions on the shape of future regulations on the use of supplements to second-class publications. The third notice sought to obtain mailers' comments on specific issues for which the Postal Service was seeking further guidance. In addition, substantive rules were proposed which would have (a) governed the mailing of loose supplements with bound second-class publications when they were sent together under the same cover, (b) explained the proper manner of addressing copies of second-class publications which are enclosed in plastic wrappers with supplements, and (c) placed limitations on the kind and proportion of supplemental material that may be mailed with each second-class publication.

(4) 53 FR 6837-42 (March 3, 1988). After reviewing comments to the earlier proposals pertaining to this subject, the Postal Service published the fourth and last proposed rule which would provide for mailing third-class enclosures with second-class publications and would restrict the mailing of supplements to second-class publications. In particular, the proposed rule at issue in this rulemaking would include expanded regulations for the inclusion of third-class enclosures; recommend methods for identifying supplements; specify addressing options for polywrapped second-class publications; require all supplements to bound second-class publications to be bound into, or permanently attached within, the second-class publication being supplemented; prohibit supplements from bearing a permit imprint; and specify how supplements to unbound second-class publications must be properly prepared and inserted.

The Postal Service is now issuing a final rule governing the conditions under which supplements and enclosures may be mailed with second-class publications. These final regulations are the product of an intensive consideration of the policies underlying the concept of having supplements, enclosures, and additions to second-class publications; and a consideration of the various kinds of publications currently eligible for second-class mail privileges and the mail preparation capabilities available to them.

These considerations were greatly aided by the views on second-class mail issues and the interest in various mail preparation techniques that were expressed in the comments submitted in response to the proposed rules.

In the consideration of these matters, the long-standing distinctions between bound and unbound publications and

their different method of preparation are pertinent. Although binding is not a requirement for second-class entry, many publishers choose to bind their publications to provide an easy-to-handle, integrated product to their readers. Publishers of unbound publications, i.e. newspaper and newletters, instead fold the pages of the publication together to create an integral product.

Postal regulations have provided that supplements must be folded and mailed with the regular issues. This regulation is clarified in the final rule to provide that parts, sections and supplements to unbound publications be combined with, and inserted within, the publication.

Recent changes in available publication preparation technology, especially the introduction of equipment making it practical to insert a publication in a sealed plastic wrapper (polybag), make it possible for publishers of bound publications to include with their publications additional materials that are separate and distinct from the publication. It is clear from the comments to the proposed rules, and especially the comments on the March 3, 1988 proposal that would have prohibited any loose supplements with bound publications, that many second-class publishers want to have the capability to mail loose supplements with their publications at the second-class rates of postage.

On the other side of that issue are a substantial number of commenters that expressed the view that allowing separately prepared material, enclosed loose with a bound publication in a polybag, to be treated as a second-class supplement would cause an undesirable movement of printed advertising materials from third-class to second-class, would change the nature of second-class mail, and, thus, would threaten the special status historically reserved to second-class mail publications.

If unregulated, the application of polywrapping technology would lead to the inclusion of a great deal of material in second-class publications that currently is mailed at third-class rates. Use of this technology to include separate advertising materials as supplements to second-class publications could result in many issues of publications with total advertising content approaching one hundred percent. However, recognizing that some supplements can have merit as separate items for inclusion with publications, the final rule provides for limited circumstances in which loose supplements can be mailed with bound second-class publications. Under the regulations adopted, a second-class supplement and the publication must be enclosed in an envelope or wrapper, the supplement must contain a minimum of 25 percent nonadvertising content and the supplement must be marked "Supplement to" followed by the name of the publication or the publisher.

The effective date for the entire final rule is delayed until December 18, 1988, to coincide with the effective date of Issue 29, Domestic Mail Manual, and to give publishers time to adjust, where necessary, to the new requirements.

Fifty-nine mailers, organizations, and publishers responded to the March 3, 1988 proposed rule. Those comments and requests are discussed in detail below to provide the fullest possible information to interested individuals. Unless otherwise noted, all section references are to regulations in the Domestic Mail Manual. All references to the term "polywrap" mean transparent plastic material.

Discussion of Comments on the March 3, 1988 Proposed Rule.

1. Mixed Classes of Mail with Second-Class Publications

Three commenters objected to the proposal that loose material mailed with bound publications must be considered third-class material, and thus, subject to the applicable third-class rates of postage. The proposal has been revised so that loose supplements may be mailed with bound publications under certain conditions (see comment 15 below). However, postage at the appropriate First- or third-class rate must be paid for any nongermane and independent material as prescribed by the regulations in section 136.3. This part of the proposed rule is retained.

2. Third-Class Enclosures Mailed with Second-Class Publications

No comments were received regarding the proposal that a combination mail piece consisting of second-class and third-class matter must be prepared such that the third-class matter will not separate from the second-class publication while in the mails. This part of the proposed rule is retained.

3. Weight of Enclosed Loose Third-Class Materials

No comments were received regarding the proposal that the total weight of all enclosed third-class materials must not exceed the weight limit prescribed for third-class mail in section 621.1c. This part of the proposed rule is retained.

4. Postage Placed on Enclosure or Attachment

One commenter suggested that, on polywrapped pieces, one of the permit imprint formats shown in Exhibit 145.51 b–c should be allowed to be placed immediately below the words "Second-Class," as an alternative to placing the applicable third-class postage on the third-class enclosure or attachment. This is currently permitted by section 136.312 which states that postage may be placed on the outside envelope, wrapper, or cover by using precanceled stamps, meter stamps, or permit imprints. The proposed language has been expanded to include First-Class Mail.

5. Postage Payment Calculation for Third-Class Enclosures

One commenter inquired about how third-class postage would be calculated on enclosures mailed with a second-class publication. This commenter suggested that the third-class rates to be paid on each piece be based, in certain respects, on the comparable second-class rate applicable to the copy of the publication with which the enclosure was mailed. This commenter surfaced a difficult question of how a mailer determines the proper bulk third-class rate to pay on an enclosure in a publication mailed at second-class rates, given the different makeup rules for the various second-class and third-class rate categories. This could be a complicated problem because, for example, a publisher needs a minimum of six copies of a publication to be eligible for the carrier route second-class rate while a third-class mailer needs a minimum of ten pieces to qualify for the carrier route third-class rate.

To resolve the problem, the commenter's suggestion has been adopted in section 136.311c in the final rule, which states that "The applicable First-Class or third-class rate, based on the comparable second-class per piece rate category applicable to the copy of the publication containing the First-Class or third-class enclosure or attachment, is paid on the enclosure or attachment." This seems the only reasonable approach to take to determine postage to be paid for First-Class and third-class enclosures and attachments in second-class publications. To do otherwise, the mailer would be required to perform a hypothetical resortation of the mailing, based upon third-class makeup requirements, to determine the distribution of the mail pieces among the bulk third-class categories. This would

be a difficult and expensive task for the mailer and would be inconsistent with the treatment of the second-class publication as the primary mail piece in the combined mailing.

6. External Dimensions of Enclosures

One commenter disagreed with the proposal to set the maximum external dimensions of an enclosure somewhat larger than the second-class piece. The commenter suggested that the enclosure should not exceed the size of the outer-back or front cover of the publication regardless of whether polywrapped, enveloped, or sleeved. This suggestion is well taken. Such a requirement for both bound and unbound second-class publications will help ensure that supplements and third-class enclosures, whether loose or attached, do not separate from the host second-class publication while being sorted for delivery, making it more expensive to handle and deliver. Therefore, the final rule specifies that both supplements and third-class enclosures must not exceed the dimensions of the second-class publication. In addition this provision has been extended to First-Class enclosures.

7. Permit Imprints on Loose Third-Class Enclosures

No comments were received regarding the proposal that the publication and the third-class enclosures must be prepared so that no permit imprint will be visible to mail handling personnel. This part of the proposed rule, as adopted, has been extended to include First-Class enclosures.

8. Location of Second-Class Publication in Polybag

No comments were received regarding the proposal that, if enclosed in a plastic wrapper or polybag, the second-class publication must be the top or bottom piece and its title must be visible. This part of the proposed rule is retained.

9. Addressing Loose Enclosures

Two commenters saw no problem with third-class enclosures being addressed when such material was enclosed in a polybag. However, these comments have not diminished the concern that mail handling personnel may not provide the polybagged mail piece containing addressed third-class matter the appropriate service prescribed for a second-class publication. In addition, there could be confusion when postal employees sample mail to collect information which will be used to determine the costs for handling the mail. For these reasons, this proposed rule is retained and extended to include First-Class Mail, other than incidental First-Class Mail.

10. First-Class Enclosures

No comments were received regarding the proposal that separate and independent pieces of First-Class Mail (i.e., matter not qualifying as incidental attached mail under section 136.4) may be mailed as enclosures with second-class publications when postage at the appropriate First-Class rate is paid for the enclosed material. When more than one such piece is enclosed with the publication, all pieces of First-Class matter inside the addressed second-class package will be regarded as a single enclosure for the purpose of computing postage. This part of the proposed rule is adopted.

11. Markings Required on or for Enclosures

No comments were received regarding the proposal that the mailer must mark each piece as required by section 136.325 when postage for the enclosure is placed on the outside envelope, wrapper, or cover of a publication. Markings are not required when postage is placed on the enclosure. This proposal is adopted.

12. Editions With Supplements

No comments were received regarding the proposal that each edition of a publication must have a separate mailing statement when supplements are included in copies of the edition. This proposal is adopted.

13. Definition of Supplement

Two comments were received regarding the new proposed definition for a supplement as consisting of one or more printed sheets prepared as part of the second-class issue, in order to be eligible for second-class rates. It may contain advertising matter, nonadvertising matter, or both. One commenter supported the definition proposed in the third (July 1987) proposed rule. Another suggested that it was too vague without offering any improvements. We are satisfied that the definition proposed in the fourth (March 1988) proposed rule is sufficiently precise to serve its purpose in these regulations.

14. The Requirement That Supplements Be Germane

Five comments were received regarding the proposal that supplements be germane to the issue, being omitted in the interest of space, time, or convenience. Two commenters indicated that the word "germane" should be interpreted to include all printed matter which relates to or consists of services or products provided by the publisher. Another commenter stated that the word "germane" should be treated in a broader sense, that is, to include loose printed materials of any kind. A fourth commenter stated that a requirement to securely attach a supplement to a page of the publication conflicts with the supplement's omission "in the interest of space, time or convenience." Another commenter questioned why a supplement should have to be germane to the issue or publication.

The direction suggested by these comments, if adopted, would permit the mailing of materials which are clearly third-class type matter, for example, samples of merchandise and products, independent publications, and publications designed for advertising purposes. These materials are not eligible for mailing at second-class rates. Accordingly, the proposal that supplements must be germane to the issue, as required in current regulations, is retained. However, the Postal Service has decided not to require supplements to be bound into or be affixed to bound second-class publications in certain circumstances, as described below.

15. Supplements to Bound Publications

Nine comments were received regarding the proposal that a supplement to a bound publication must be bound into, or permanently attached within the publication. One commenter advised that if the supplementary material bears the endorsement "Supplement to" followed by the name of the second-class publication, it should be acceptable loose in a polybag. Another commenter urged that bound or permanently attached supplements would make the second-class publication it accompanies burdensome and unwieldy to use because the supplement could not be separated from the host publication. Still another commenter stated that the March 3 proposal would preclude the use of expensive polywrapping equipment it had purchased and that the proposals would severely harm the polybag insert program for many publications.

Another commenter opposed this rule stating that the entire polybagged package should be considered second-class mail for postal purposes. Another commenter said use of a polybag allows loose supplementary materials to be treated as one mail piece creating no processing difficulties for the Postal Service. This commenter also stated that, without the opportunities for using

new technology, many small publishers may have to close their doors. Still another commenter advised that to pursue the proposed course would simply mean that much material now being mailed would cease to be produced. Another stated that it is unreasonable that supplements must be bound or permanently attached within second-class publications when polywrapped. The commenter stated that binding in a supplement may not always guarantee that the supplement is germane to the publication and that polybagging is simply a more efficient way of including material with the host piece at no additional handling cost to the Postal Service. Several commenters also said the proposals would eliminate the practicality of polybagging and that numerous printers, mailers, and publishers have invested heavily in polybag equipment.

In light of the comments received, the language proposed as § 425.42b is no longer under consideration. As explained in comment No. 17, the final rule recognizes that loose supplements meeting certain requirements may be included with bound publications.

16. Methods Of Identifying Supplements

Four comments were received regarding the proposal to prescribe a number of recommended ways to identify supplements. This proposal stated that evidence that material qualifies as a supplement could come from indicators such as including the material in the pagination of the copies of the second-class publication, listing the material in a table of contents or elsewhere in the second-class publication, showing the second-class title and the date of issue in the foot or date-lines of the material, and showing "Supplement to" followed by the name of the second-class publication or the name of the publisher on the material. However, none would have been mandatory under the proposed rule.

One commenter suggested that one of the four should be compulsory to identify a supplement, with the choice left to the publisher. Another commenter preferred that both the name of the publication and the date of issue be used for identifying purposes because the inclusion of such information would not be a significant burden and would serve to enhance the protection of second-class mail. Another commenter said that second-class matter should be clearly differentiated from any other mail matter which must be or is mailed at third- or fourth-class rates and, therefore, urged that supplements be required to be endorsed "Supplement to" followed by the name of the publication or the name of the publisher. Another commenter expressed the opinion that the inclusion of four reasonable options provides a publisher with the flexibility to deal with various situations faced during the publishing cycle of an issue.

After careful consideration of all the comments received concerning this issue, in light of the decision that some loose supplements will be permitted with bound publications, the Postal Service has decided that those supplements need to be identified. The "Supplement to" endorsement is an important indication that the material is intended for distribution with the second-class publication. Accordingly, the language proposed as § 425.43a–d is no longer under consideration. The language is changed to indicate that a loose supplement must bear the printed endorsement "Supplement to" followed by the name of the second-class publication or the name of the publisher.

17. Loose Supplements with Bound Publications

Ten commenters suggested that loose supplements should be permitted with bound publications under limited conditions. The commenters suggested that unbound supplements should be acceptable for mailing at the second-class rates provided they contain only the advertising of the publisher's own products or services; or not less than 25 percent nonadvertising content; or not less than 25 percent of the kind of advertising described in § 422.232b that is prepared by the publisher; or a combination of this type of advertising material and nonadvertising material equal to at least 25 percent of the content of the supplement.

The Postal Service interprets the suggestion to mean that a supplement to a bound publication should contain a minimum of 25 percent nonadvertising matter or a combination of 25 percent nonadvertising matter and advertising matter prepared as editorial information.

Based upon these comments and those discussed in 15 above, the final rule provides that loose supplements may be mailed with bound publications under certain conditions designed to prohibit abuse of second-class mail through the inclusion of loose supplements in polybags. Loose supplements are acceptable if enclosed in a plastic wrapper (polybag), envelope, paper wrapper, or if the combination of supplement and publication is contained in a sleeve and the supplements are inserted within the pages of the publications and held in place by tension, or secured in such a manner that they will not be separated from the publications while in the mails. The commenters' proposal would permit some publishers (who sell other products or services) to have a broader ability to mail supplements at second-class rates than other publishers (whose only business is the publication of a single publication). This would be an unreasonable preference granted to only a portion of second-class publishers and could be argued to be a violation of the Postal Reorganization Act (39 U.S.C. 403(c)). In the same vein, material which is specifically classified as advertising matter for second-class purposes (under section 422.232b) should not be treated as equivalent to nonadvertising matter in the makeup of loose supplements.

However, the final rule does accept that loose supplements containing at least 25 percent nonadvertising matter can be mailed with bound publications. By requiring a level of nonadvertising content similar to that required for the second-class publication as a whole, the rule should avoid the serious problems with the use of loose supplements with bound publications in polybags.

Thus, the final rule specifies that a loose supplement to a bound second-class publication must contain at least 25 percent nonadvertising matter. This is an objective test which should be easily understood and administered and is a fair response to those publishers who want to mail loose supplements with bound publications, consistent with the compelling need to maintain the integrity of second-class mail. In addition the other criteria in this rule concerning size of supplements, use of wrappers and envelopes, and identification of supplements will help ensure that only bona fide supplements will be mailed loose with bound publications at the second-class rates.

18. Supplements To Unbound Publications

Two comments were received regarding the proposal that a supplement to an unbound publication must be combined with, and inserted within the publication. Both commenters indicated that, if publishers of bound publications must bind or permanently attach supplementary materials into the publication, then publishers of unbound publications should not be able to merely combine or insert a supplement within the unbound publication. In considering these comments, the long-standing distinctions between bound and unbound publications and their different methods of preparation are compelling. Although binding is not a requirement for second-class entry,

many publishers choose to bind their publications to provide an easy-to-handle, integrated product to their readers. Publishers of unbound publications, i.e. newspapers and newsletters, instead fold the pages of the publication together to create an integral product. The regulations have required, and will continue to require, that parts, sections and supplements to unbound publications be combined with, and inserted within, the publication. Moreover, this rule enables publishers of bound publications to include, under certain conditions, supplements that are loose and separated from the publication.

19. Computation of Postage

No comments were received regarding the proposal that the advertising and nonadvertising content of supplements be included in determining the total advertising and nonadvertising percentages of the second-class publication. Therefore the proposal has been adopted.

20. Permit Imprints On Supplements

Ten comments were received regarding the proposal that a supplement may not bear a permit imprint. Eight supporters of the proposal concluded that the permit imprint is a clear indication that such material was not prepared as a supplement because it contradicts the definitional criterion of "having been omitted in the interest of space, time, or convenience."

One commenter said that material which is prepared for distribution in second-class periodicals, and also mailed or distributed as an independent third-class piece should not be eligible for second-class rates or service. This commenter said its view was consistent with the traditional requirement that a supplement be "germane" to the second-class periodical with which it is mailed. Another commenter expressed the opinion that a supplement containing a third-class postage imprint is obviously an advertising piece prepared for mass circulation at third-class rates and urged that such advertising be excluded from second-class mail. One commenter opposed the proposal, stating that some advertisers prepare their advertising sections with the intention of distributing some pieces with second-class publications and others alone as third-class mail; the commenter also stated that the proposal may inhibit some advertisers who wish to maintain flexibility. Another commenter, not opposed to the proposal, had serious reservations as to the utility of such a rule since it apparently is based upon the premise that having a third-class imprint indicates that the material was prepared for third-class mailing.

The presence of a permit imprint on the material is a clear indication that it was prepared for distribution as third-class matter. Such material should not qualify as a supplement to a second-class publication. The proposed language is retained in this rule.

21. Parts and Sections

No comments were received regarding the proposal that material prohibited as supplements may not be prepared as parts or sections. The proposed language is adopted in this rule.

22. Supplements Mailed Separately

No comments were received regarding the proposal that a supplement may not be mailed by itself at second-class rates of postage, but is subject to the applicable third- or fourth-class rates of postage according to weight. Such a separate mailing is inconsistent with the concept of material being a supplement to a publication. The proposed language is adopted.

23. No Addresses On Supplements

Twelve comments were received regarding the proposal that a supplement may not be addressed. All were in favor of allowing publishers to print the delivery address on supplements. One commenter favored accepting addressed supplements, pointing out that the address could serve as the address label for delivery of the publication. Another observed that publishers now are permitted to address receipts and orders for subscriptions and other incidental First-Class Mail attachments and use those addresses as the delivery address. This commenter felt that addressing the supplement and using that address as the delivery address is consistent with these long standing postal regulations. One commenter said that the issues of addressing supplements and label carrier usage are intertwined because addressing and advertising on label carriers are natural uses of current printing technology. Accepting addresses on supplements would permit the transfer of an advertisement from inside the publication to the supplement or label carrier.

Consequently, the placement of the address on the supplement should be for the convenience of the publisher and subscriber. Another commenter wanted to know what processing problem addressing a supplement would pose for the Postal Service, expressing the view that, very often, addressing the supplement is the best way to prepare the package for mailing. The commenter urged that, so long as it does not hinder processing of the publication, it should be allowed.

In view of these points, the language proposed as § 425.42h is not adopted. Instead, under the final rule, a loose supplement to a bound second-class publication may be addressed if that address is used as the delivery address for the second-class piece and the address is surrounded by a clear area.

24. Use of ISSN And ISBN Numbers on Supplements

Three comments were received regarding the proposal that items bearing an ISSN (International Standard Serial Number) or ISBN (International Standard Book Number) will be deemed to be independent publications and may not be mailed as supplements. One commenter indicated that after a supplement is mailed with the parent publication, that supplement is advertised as a stand-alone monograph for sale to nonsubscribers. To facilitate librarians checking in the supplements, the publisher subsequently prints an ISBN on the material which was originally issued as a supplement. When the single copy sale is made, the issue is sent at the fourth-class book rate. Three commenters stated that a supplement bearing the ISSN of the host second-class publication should be acceptable for mailing as a supplement to a second-class publication. The final rule is modified to state that the presence of an ISSN that is not the same as the ISSN in the host second-class publication, or the presence of an ISBN on printed material included with a second-class publication is clear evidence that the material is actually a separate publication. Thus, such material will not be allowed to be mailed as supplements. There is no problem, however, if an ISBN is subsequently printed on a supplement for separate mailing.

25. Third- or Fourth-Class Catalogs

The proposed rule would provide that third- or fourth-class catalogs are examples of independent publications that may not be mailed as supplements. One commenter indicated that it should make no difference if the material is a third- or fourth-class catalog since both consist of printed sheets as do second-class publications. While catalogs may consist of printed sheets, the important fact is that they are independent publications, not supplements, and are subject to the applicable third- or fourth-class rates of postage depending on weight. Therefore, the proposed language is adopted.

26. Products and Product Samples

In response to the proposal to exclude products and product samples from acceptance as supplements, one commenter indicated that calendars of any type should be allowed as supplements. Section 425.44b of the proposed rule retained the current regulation that clearly distinguishes between calendars of events and wall and desk calendars which are products or product samples ineligible for inclusion in second-class publications as supplements. This is an appropriate distinction. Properly prepared calendars of events may be included as supplements if they meet all the requirements for preparation of supplements. Wall, desk, and blank calendars are more appropriately treated as ineligible products.

27. Other Publications of the Publisher

The rule also proposed that a publication owned or controlled by a publisher of an existing second-class publication and used essentially for the advancement of any other business or calling of those who own or control the publication may not be mailed as a supplement at second-class rates. One commenter urged the acceptance of any promotional material which offers for sale products or services germane to the publication and produced by the publisher or its company.

The commenter did not provide a rationale for this idea and it is not clear whether the commenter is concerned about a separate publication of the publisher or just promotional material. The latter would be covered by the above discussions. For publications, current regulations specify that publications owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of any other business or calling of those who own or control them are designed for advertising purposes and are ineligible for second-class rates. It would violate this principle to allow a mailer to send such materials at second-class rates by designating them as a supplement. This portion of the proposed rule is adopted. The final rule also clarifies that any other second-class publication is considered to be an independent publication that would not qualify as a supplement to another second-class publication.

28. General Addressing

Seven comments were received regarding the proposal that label carriers be reserved only for information such as (a) the second-class imprint or the endorsement "Second-Class" in the upper right corner of the address side (or alternatively the second-class imprint or the endorsement "Second-Class" on the address side of the polybag); (b) the title of the second-class publication; (c) the address to which the mail piece can be returned if it is undeliverable as addressed and bears the endorsement "Return Postage Guaranteed;" (d) subscription renewal information; and (e) requests for address correction information from the addressee, provided the address is surrounded by a clear area on the label carrier (containing no information other than the address of the piece), or the address is clearly visible. All seven commenters asked that the rules enable advertisements to be printed on the reverse side of label carriers based upon the current practice of accepting advertisements on the reverse side of detached address labels used in the mailing of flats at the third-class rates of postage. This seems a good analogy and the rule is revised to accept advertisements printed on the back of label carriers. Section 452.1g(1) is also revised to clarify the alternative endorsement permitted on a clear wrapper.

29. Other Addressing Issues

No comments were received regarding the general addressing requirements that prohibit the label carriers from rotating inside the polywrapped mail piece. These are adopted.

30. Subscription Order Forms

Comments were received recommending that (a) subscription renewals should be acceptable when placed inside envelopes, and that (b) publishers be able to include promotions for other magazines on subscription order forms.

The first of these two proposals is already acceptable. However, section 425.6 is being amended to make the regulations clear on the matter.

With respect to (b) above, provision is already made in section 425.6d for combination forms for two or more second-class publications issued by the same publisher. Promotions for publications issued by others would constitute advertisements, and must meet the provisions of section 425.9. Accordingly, this change is not made.

31. Other Endorsements and Markings

The need for another change not published in the proposed rule was identified as the comments and regulations were examined. The final rule amends section 453.2a so that the endorsement "Second-Class" may appear on the address side of an addressed piece rather than in the upper right-corner of the address side when a clear plastic wrapper is used. This change should not adversely affect the Postal Service's ability to recognize addressed pieces of second-class publications and to provide the service the copies are entitled to receive when they are enclosed in clear plastic wrappers. Also, it will allow mailers to more easily comply with the notice of entry requirement when copies of second-class publications are mailed in clear plastic wrappers.

List of Subjects in 39 CFR Part 111

Postal Service.

In view of the considerations discussed above, the Postal Service hereby adopts the following amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1).

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In Part 136, revise section 136.31 to read as follows:

PART 136—MIXED CLASSES OF MAIL

* * * * *

136.3 Mailing Enclosures of Different Classes.

136.31 With Second-Class Publications.

136.311 General.

Except as provided in 136.312, all enclosures mailed with a bound publication must be bound into the publication or securely affixed to a page of the publication. Enclosures mailed with an unbound publication must be combined with, and inserted within, the publication. Separate and independent pieces of non-incidental First-Class Mail (i.e., matter not qualifying as incidental First-Class attached mail under 136.4) and pieces of third-class mail may be mailed as enclosures with second-class publications.

.312 Loose Enclosures. Loose enclosures may be mailed together with a bound second-class publication only when:

a. The enclosure and the second-class materials are totally enclosed in an envelope, plastic wrapper (polybag) or paper wrapper, or the enclosure and the second-class materials are contained in a sleeve and the enclosures are inserted within the pages of the publication and held in place by tension, or secured in such a manner that they will not be separated from the publication while in the mails; and

b. For third-class matter, the total weight of all enclosed materials must not exceed the weight prescribed for third-class mail in 621.1(c)—it must be less than 16 ounces; and

c. The external dimensions of the enclosure may not exceed the external dimensions of the second-class publication; and

d. The publication and the enclosure must be prepared so that any permit imprint on the enclosure will not be visible to mail handling personnel; and

e. If enclosed in a plastic wrapper or polybag, the second-class publication must be the top or bottom piece, must face out, and its title must be visible; and

f. The enclosure must not be addressed.

.313 Payment of Postage. The applicable First-Class or third-class rate, based on the comparable second-class per piece rate paid on the copy of the publication containing the enclosure or attachment, must be paid for the enclosed material. For example, if there are six copies for a carrier route and the carrier route rate is paid for each addressed second-class copy, the First- or third-class enclosure or attachment will also qualify for the carrier route rate. When more than one such piece of the same class of mail is enclosed with the publication, they may be treated as a single enclosure for the purpose of computing postage. The applicable First- or third-class postage may be placed on the enclosure by using precanceled stamps or meter stamps; or the postage may be placed on the outside envelope, wrapper, or cover by using precanceled stamps, meter stamps, or permit imprints. Postage at the second-class rates must be paid on the publication in the manner prescribed by 480.

.314 Marking Required. When postage for the enclosure is placed on the outside envelope, wrapper, or cover of a publication, the mailer must mark each piece as required by 136.325. Markings are not required when postage is placed on the enclosure.

3. In part 425, revise 425.23 by adding a new section 425.234 to read as follows:

PART 425—WHAT MAY BE MAILED AT THE SECOND-CLASS RATES

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425.2 Issues and Editions.

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425.23 Editions.

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.234 When a supplement is included in copies of an edition, the publisher must submit a separate mailing statement for the edition.

4. In Part 425, revise section 425.4 to read as follows:

425.4 Supplements.

.41 Definition.

a. A supplement consisting of one or more printed sheets which are prepared as part of the second-class issue is eligible for second-class rates. Except as otherwise provided, it may contain nonadvertising matter, advertising matter, or both.

b. The supplement must be germane to the issue, having been omitted in the interest of space, time, or convenience.

.42 General Conditions. All supplements to a publication entered as second-class mail must meet the following conditions:

a. The nonadvertising and advertising content of the supplement is included when determining the percentages of advertising and nonadvertising matter in each issue.

b. The supplement may not bear a permit imprint.

c. Material prohibited as supplements may not be prepared as parts or sections.

d. A supplement may not be mailed by itself at the second-class rates of postage.

e. The external dimensions of the supplement may not exceed the external dimensions of the second-class publication.

f. Material which is not added to complete a copy of a second-class publication, or is not formed of printed sheets, or is otherwise ineligible for second-class rates cannot qualify as a supplement to a second-class publication. Among such materials are:

(1) Independent Publications. Independent publications may not be mailed as supplements. Examples include third- or fourth-class materials such as paperback books, hardback books, catalogs, and other second-class publications. The following characteristics provide evidence that the printed material is actually a separate publication: masthead, price, volume number, issue number, or stated frequency of issue. Items bearing an ISSN (International Standard Serial Number) that is not the same as the ISSN printed in the host second-class publication or an ISBN (International Standard Book Number) are deemed to be independent publications and may not be mailed as supplements. Materials that contain their own mastheads and do not bear the title of the host second-class publication on the front cover page are not supplements.

(2) Products and Product Samples. Products and product samples are ineligible as supplements. Examples include: (a) Stationery (such as pads of paper, or blank printed forms), (b) cassettes, (c) floppy disks, (d) merchandise samples, (e) swatches of materials, (f) envelopes containing enclosures, other than receipts, orders for subscriptions and incidental First-Class matter and (g) wall, desk, and blank calendars. Properly prepared calendars of events may be included as supplements.

(3) Other Publications of the Publisher. Publications owned or controlled by a publisher of an existing second-class publication and used essentially for the advancement of any other business or calling of those who own or control it may not be mailed as supplements.

.43 Loose Supplement to a Bound Publication.

A loose supplement may be mailed together with a bound publication when it meets all of the following conditions:

a. The combination is totally enclosed in an envelope, plastic wrapper (polybag), or paper wrapper; or the combination is contained in a sleeve and the supplement is inserted within the pages of the publication or secured in such a manner that it will not be separated from the publication while in the mails.

b. The supplement must bear the printed endorsement. "Supplement to" followed by the name of the publication or the name of the publisher

c. The supplement must contain at least 25 percent nonadvertising matter.

Note: A loose supplement to a bound publication may be addressed if that address is used as the delivery address for the publication. The address must be located in the manner as prescribed by Exhibit 452.1, and the address must be surrounded by a clear area.

.44 Supplement to an Unbound Publication. A supplement to an unbound publication must be combined with, and inserted within, the publication.

5. In Part 425, revise 425.6 to add new subsection 425.6e to read as follows:

425.6 Enclosures.

* * * * *

Preparation methods include, but are not limited to:

* * * * *

e. Inserted in an envelope that is either attached to, or enclosed (either loose or bound) within, the copies of a second-class publication.

6. In Part 452, revise 452.1e, and add a new 452.1g to read as follows:

PART 452—ADDRESSING

452.1 General Addressing.

* * * * *

e. When addresses, including address strips, are placed on the wrapper or envelope, or directly on the copies, they must be placed in a visible position. When the address is placed on the wrapper, it must appear on a flat side and never on the fold.

* * * * *

g. Addresses, including address strips, may be placed on a label carrier (which may be card or paper stock), receipts and orders for subscriptions, incidental First-Class attachments, and supplements when totally enclosed in a plastic wrapper (polybag), subject to the following conditions:

(1) The label carrier must bear the following items of information: (a) The second-class imprint or the endorsement "Second-Class" in the upper right corner of the address side unless "Second-Class" is printed on the address side of the polybag; (b) the title of the second-class publication; and (c) the address to which the package can be returned if it is undeliverable as addressed and bears the endorsement "Return Postage Guaranteed."

(2) In addition to the items listed in (1) above, the label carrier may bear only the following additional items of information: (a) Subscription renewal information; and (b) requests for address correction information from the addressee, provided the address is surrounded by a clear area on the label carrier (containing no information other than the address of the piece). In addition, the endorsement "Third-Class Mail Enclosed," or First-Class Mail Enclosed," as appropriate, may be placed below the second-class imprint or the "Second-Class" endorsement.

Note: Advertising is permitted on the back of label carriers provided that the appropriate rate is paid on the advertising. The procedure

for computing postage on such material is contained in § 482.333.

(3) The address may be positioned on the label carrier in the manner shown in Exhibit 452.1. The label carrier must be securely affixed to the cover of the publication unless the label carrier is of sufficient size to prevent it from rotating inside the plastic wrapper.

(4) Addresses, including address strips, may be placed on receipts and orders for subscriptions and incidental First-Class attachments. Such receipts and orders for subscriptions and incidental First-Class attachments must be securely affixed to the cover of the publication, unless the receipt, order for subscription or incidental First-Class attachment is of sufficient size to prevent it from rotating inside the plastic wrapper. The address must be surrounded by a clear area.

(5) Addresses, including address strips, may be placed on loose supplements mailed with bound publications when that address is used as the delivery address and the address is surrounded by a clear area. Such supplements must be of sufficient size to prevent them from rotating inside the plastic wrapper.

6. In Part 453, revise 453.2a to read as follows:

PART 453—MARKING REQUIREMENTS AND ENDORSEMENTS

* * * * *

453.2 Endorsements and Other Markings.

a. Wrappers and Covers.

(1) Upper Right Corners. Sealed or unsealed envelopes used as wrappers, clear plastic wrap, and sealed covers used to enclose publications must show a notice of entry in the upper-right corner of the address area. When a clear plastic wrap is used, the publication must be placed so that its title will always be visible.

(2) Upper Left Corner. At the publisher's option, the name of the publication followed immediately by the publication number furnished by the Office of Classification and Rates Administration, Rates and Classification Department, USPS Headquarters, and the mailing address to which undeliverable copies or change of address notices are to be sent may be shown in the upper-left corner. The publication number includes an alpha prefix and is to be within parentheses; for example: THE NATIONAL WEEKLY (ISSN 9876-543X) or THE COMMUNITY JOURNAL (USPS 123-456). See 455.2 a, g, h, and i, and 453.2c for additional instructions. These endorsements may be printed directly on the outside of the publication, provided they can be recognized and read when the wrapper is in place, such as when the publisher uses clear plastic wrappers and opaque sleeves which only partially cover the publication.

(3) Alternative. As an alternative to printing the information in (1) and (2), only the words "Second-Class" (to show that second-class postage has been paid) need be printed in the upper-right corner of the address side of the publication, the upper-right corner of the address side of sealed or unsealed envelopes used as wrappers, the upper-right corner of the address side of opaque plastic wrap and sealed covers, or on the address side of clear plastic wrap.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88-20962 Filed 9-14-88; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3447-7]

Approval and Promulgation of Air Quality Implementation Plans; State of Missouri; Amended Inspection and Maintenance Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA approves the state of Missouri's changes to its motor vehicle inspection and maintenance (I/M) testing program requirements. These changes were recommended to the state of Missouri by the EPA following an I/M program audit in 1985. Three changes to the I/M testing requirements were made: (1) The use of a 12-inch probe instead of a 6-inch probe, (2) the probe is to be inserted after the engine is restarted rather than before, and (3) the emission test restart procedure is to be used on 1981 and newer vehicles manufactured by Ford Motor Company rather than those with a closed-loop exhaust system.

DATES: This action will be effective November 14, 1988, unless notice is received on or before October 17, 1988, that adverse or critical comments will be submitted.

ADDRESSES: Comments should be sent to Michael T. Marshall, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. The state submission is available for inspection during normal business hours at the above address; the Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101; and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Michael T. Marshall at (913) 236-2893 (FTS 757-2893).

SUPPLEMENTARY INFORMATION: In June 1979 the Missouri legislature authorized a pilot I/M study in the St. Louis, Missouri, area. The Missouri Department of Natural Resources (MDNR) conducted voluntary testing, evaluated equipment and types of programs, and reported its findings to the Missouri legislature on December 1, 1980. Additional I/M legal authority was adopted during the 1983 legislative session. The Missouri I/M program was made part of the Missouri Vehicle Inspection Program in the city of St. Louis, and Jefferson, St. Charles, and St. Louis Counties. The Missouri State Highway Patrol (MSHP) is in charge of running the program. The MDNR provides the technical assistance for the program and tracks program progress. The MSHP adopted the necessary procedures and rules to incorporate the emission test into the existing decentralized safety inspection program on November 1, 1983 (Volume 8, Number 11, "Missouri Register", page 1361). This included Rules 11 CSR 50-2.370, Inspection Station Licensing, and 11 CSR 50-2.400, Emission Test Procedures. I/M became mandatory in the St. Louis area on January 1, 1984. On August 27, 1984, Missouri submitted the necessary documentation to include its I/M program in the SIP. The SIP was revised on August 12, 1985 (50 FR 32411), to include the regulations and other elements of the St. Louis, Missouri, I/M program.

An audit of the Missouri I/M program in March 1985 by the EPA disclosed that Missouri's I/M regulations did not meet the provisions of the federal "Engine Restart Idle Test" (40 FR 85.2211). First, the state's rules require the probe to be inserted into the tailpipe for emissions testing before the vehicle is restarted. The probe should be required to be inserted after the vehicle is restarted. Second, the state's rules require all 1981 and newer vehicles with a closed-loop exhaust system that have failed the initial idle emissions test to have a second emissions test using the "Engine Restart Idle Test". It was pointed out to the state that Ford Motor Company had petitioned EPA to promulgate the "Engine Restart Idle Test" for all its 1982 and newer vehicles, some of which did not have closed-loop exhaust systems.

EPA adopted the rule on June 21, 1984 (49 FR 24320).

The state's rules require the testing probe be at least 6 inches. EPA has determined that the probe should be inserted into the tailpipe at least 12 inches to prevent dilution with ambient air while testing with the probe in the tailpipe.

On April 6, 1987, the MSHP proposed to amend Rule 11 CSR 50–2.370, Inspection Station Licensing, and Rule 11 CSR 50–2.400, Emission Test Procedures (Volume 12, Number 8, "Missouri Register", page 548) to require:

1. All emission testing probes shall be at least 12 inches long and must be inserted at least 12 inches into the tailpipe;

2. All 1981 and newer Ford Motor Company vehicles that fail the initial idle emission test must be retested following the engine restart idle test procedure; and

3. When testing a vehicle using the engine restart idle test procedure, the probe is to be inserted after the vehicle is restarted.

There were no comments received on the proposed rule changes.

The MSHP adopted the changes on June 15, 1987 (Volume 12, Number 12, "Missouri Register", page 875) and they became effective as state rules on June 25, 1987. The Missouri Air Conservation Commission adopted the MSHP rule amendments as a revision to the Missouri SIP on July 16, 1987. The state submitted the changes to EPA for revision to the Missouri SIP on December 27, 1987. The changes meet the provisions of 40 CFR 85.2211, which EPA uses as a standard for reviewing portions of I/M testing programs.

The state submission constitutes a proposed revision to the Missouri SIP. The Administrator's decision to approve or disapprove a proposed revision is based on the comments received and on the determination of whether or not the revision meets the requirements of sections 110 and 172 of the Clean Air Act, of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans, and of the 1982 SIP policy (46 FR 7184, January 22, 1981).

EPA Action

I hereby find the portions of the Missouri SIP described above to be approvable.

Today's notice takes final action to approve a revision to the Missouri SIP for changes to the MSHP's existing I/M regulations. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective November 14, 1988, unless, within 30 days of this publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective November 14, 1988.

Under 5 U.S.C. 605(b), I certify that this action will have no significant economic impact on a substantial number of small entities (see 46 FR 8709).

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

Incorporation by reference of the SIP for the state of Missouri was approved by the Director of the Federal Register on July 1, 1982.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for the appropriate circuit on or before November 14, 1988. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Date: September 7, 1988.

Lee M. Thomas,

Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart AA—Missouri

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1320 is amended by adding paragraph (c)(60) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(60) A plan revision to correct motor vehicle inspection and maintenance testing deficiencies was submitted by the Department of Natural Resources on December 29, 1987.

(i) *Incorporation by reference.* (A) Regulations 11 CSR 50–2.370 and 11 CSR 50–2.400, effective June 25, 1987.

[FR Doc. 88–21012 Filed 9–14–88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Region II Docket No. 84; FRL-3419-7]

Approval and Promulgation of Implementation Plans; Revision to the State of New York Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a November 6, 1987 request from the New York State Department of Environmental Conservation to revise its State Implementation Plan (SIP) by granting a variance to Polychrome Corporation in Yonkers, New York from specific reasonably available control technology (RACT) emission limits contained in a State regulation, Part 228, "Surface Coating." This revision establishes and requires the use of a source-specific RACT emission limit for the source. Polychrome Corporation is located in the New York City metropolitan area, a nonattainment area for ozone. The intended effect of this action is to revise the volatile organic compound emission limit for Polychrome Corporation in the New York SIP.

EFFECTIVE DATE: This action will be effective November 14, 1988 unless notice is received by October 17, 1988 that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be adressed to: Christopher J. Daggett, Regional Adminstrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW, Washington, DC 20460

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233-0001

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1987, the New York State Department of Environmental Conservation (NYSDEC) submitted to the Environmental Protection Agency (EPA) a request to revise its State Implementation Plan (SIP) for ozone. This SIP revision request involves a variance from volatile organic compound (VOC) emission limits for a lithographic plate manufacturing facility. The facility is owned by the Polychrome Corporation and is located in Yonkers, New York, a designated nonattainment area for ozone. This facility is subject to the SIP approved emission standard of 2.6 lbs VOC/(gallon coating minus water) in Title 6 NYCRR, Chapter III, Part 228.

Polychrome manufactures and uses light sensitive speciality coatings that contain as much as 99 percent or more solvent by volume and emits approximately 130 tons per year of VOCs. Because of the unusually high solvent content of the current coatings and the inability of the source to use reformulated coatings, Polychrome would be required under Part 228 to install add-on controls to destroy or remove at least 99.7 percent of the VOCs currently emitted from their coating processes in order to meet the 2.6 lbs VOC/(gallon coating minus water) standard. Polychrome believes this degree of control to be both technologically and economically infeasible and is seeking a waiver from meeting this standard. Under Part 228.3(d) NYSDEC may accept a lesser degree of control if a source can submit satisfactory evidence that the 2.6 lbs/gallon standard is technologically and economically infeasible and that a lesser degree of control is sufficient to meet the definition of Reasonably Available Control Technology (RACT). Polychrome is proposing to install a thermal incinerator with 98 percent destruction efficiency and a capture system with a 92 percent collection efficiency to meet RACT.

Technological Infeasibility

Polychrome has investigated both reformulation and add-on controls to reduce VOC emissions from its three coil coating stations, each of which is located in a separate booth.

- *Reformulation*

Polychrome's Research and Development Department has investigated both high-solids and water-based coatings. Their research into high-solids coatings has shown that, while some of the solids concentrations can be increased, others cannot because they are at their solubility limits. These solids drop out of the solution resulting in either a concentration gradient on the plate or a deficiency of one or more of the components in the applied coating. For Polychrome's lithographic plates to perform properly the solids must be distributed evenly throughout the coating. Moreover, there are no known substitutes for organic compounds to achieve the necessary wetting properties. In addition to wetting concerns, the light sensitive solids in the coating are not soluble in water. The coatings also have a limited useful storage life. Therefore, based on Polychrome's evaluation, its coating solutions are at the maximum percentage of solids possible, and cannot employ water as a substitute solvent.

- *Capture and Incineration*

In order for Polychrome to achieve a 99.7 percent overall control efficiency with an incinerator with 99.7 percent destruction efficiency, 100 percent of the VOCs emitted from the coating areas would need to be captured. While Polychrome already employs a totally enclosed booth for each coating station which is kept under negative pressure, it would be incorrect to claim that a 100% capture efficiency is practically attainable on a consistent basis. Some losses in the system are unavoidable during opening booth doors for entry and exit of plant personnel, openings for web passage into and out of the coating room, or openings for bearings shafts. These factors are discussed in detail in a capture efficiency report submitted to EPA entitled, "Coating/Drying System." Polychrome found that a 99.7 percent efficient unit would require a combustion temperature of 1800 °F and a two-second retention time. Polychrome claims that an incinerator with a thermal efficiency of 99.7 percent could not be guaranteed by the manufacturer.

Equipment specifications and worksheets were submitted in a document prepared by Smith Engineering Company/Smith Environmental Corporation entitled, "The Smith Material."

The EPA has reviewed and evaluated the technical materials submitted to support this variance request for Polychrome and finds that a 100 percent capture system and a 99.7 percent overall VOC emission reduction (capture efficiency times destruction efficiency) is not practically obtainable for this facility.

Economic Infeasibility

Polychrome performed an economic review in accordance with the NYSDEC's Air Guide 20, a New York State guidance document for assessing economic infeasibility. This document is based on previous guidance complied by TRC Environmental Consultants, Inc. for the determination of plant-specific RACT for the paper and fabric coating industries of Massachusetts. The TRC report discusses three criteria upon which a decision can be based: (1) "Return on Assets"—how much control equipment cost a source owner can afford and still earn a competitive rate of return, (2) "Reduction in Profits"—how much could profits be reasonably reduced to pay for control equipment to meet RACT requirements, and (3) "Cost Effectiveness"—RACT determinations should safeguard against cost ineffective use of fund for VOC control. Polychrome's economic analysis is contained in a report entitled, "Cost and Economic Infeasibility of High Efficiency VOC Incineration System for Lithographic Plate Manufacturing Operations."

EPA also performed an economic assessment which indicates that widely differing expenditures for control equipment ranging from 95 percent destruction efficiency to 99.7 percent destruction efficiency did not significantly affect Polychrome's "Return on Assets" or "Reduction in Profits." However, the "Cost Effectiveness" varied considerably. The costs of 99.7 percent efficiency were significantly higher than those cited in the TRC report as a cost considered to be marginally cost effective for surface coaters to pay for pollution control. These values are based, in part, on background data contained in the Polychrome economic report.

EPA concludes that Polychrome might be able to afford to purchase the 99.7 percent efficient unit, but that the cost of control would be significantly in excess of that borne by other VOC based coating users. Based on the EPA assessment of costs of various control efficiencies, a 99.7 percent efficient unit goes beyond what would be considered RACT in this situation. In this situation

a 98 percent destruction efficiency is practicable.

Alternate Control System

The Polychrome variance proposes to implement capture efficiency improvements and the installation of a 9,000 standard cubic feet per minute (SCFM) thermal incinerator with 98 percent destruction efficiency. The capture system will collect 92 percent the VOCs emitted from all coating rooms, coating head enclosures, holding tank rooms, and dryers. When combined with the 98 percent destruction efficiency thermal incinerator, this will provide an overall removal efficiency of 90 percent. The operating permit also contains requirements for inspecting and maintaining the seals and gaskets on the booths to maximize the vapor collection efficiency.

EPA is unaware of any other lithographic plate manufacturer in the nation employing controls as stringent as these. Both capture efficiency and destruction efficiency are to be verified during performance testing conducted in accordance with New Source Performance Standards (NSPS) test procedures for coil coaters.

Summary

EPA agrees with the NYSDEC finding that Polychrome is technically unable to reformulate its existing coatings without adversely affecting the quality of their product and it is technologically and economically infeasible to construct and operate a control system with 99.7 percent overall control efficiency. EPA finds that the proposed control system in the variance request for Polychrome should be considered RACT in this particular situation. Therefore, EPA approves the variance request.

This notice is issued as required by Section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 of the Clean Air Act and 40 CFR Part 51.

EPA is publishing this SIP revision request without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective 60 days from today. (See 47 FR 27073 dated June 23, 1983).

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone, Incorporation by reference.

Note.—Incorporation by Reference of the State Implementation Plan for the State of New York was approved by the Director of the **Federal Register** on July 1, 1982.

Date: July 19, 1988.

Lee M. Thomas,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart HH—New York

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1670 is amended by adding new paragraph (c)(78) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(78) A revision to the New York State Implementation Plan was submitted on November 6, 1987 and February 17, 1988 by the New York State Department of Environmental Conservation.

(i) Incorporation by reference.

(A) Operating Permit number A551800097900017 for Polychrome Corporation effective January 29, 1988 submitted by the New York State Department of Environmental Conservation.

(ii) Additional Materials.

[FR Doc. 16638 Filed 9–14–88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL-3438-6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a site-specific revision to the ozone portion of the Ohio State Implementation Plan (SIP) for the Huffy Corporation Bicycle Assembly Plant (Huffy Corporation) in Mercer County, Ohio. The revision exempts the spray coating lines at the Huffy Corporation from the requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(U)(1) of the Ohio ozone SIP. USEPA's action is based upon an April 9, 1986, revision request that was submitted by the State. USEPA is approving this revision because the source is located in Mercer County which is a rural attainment area for ozone. The Clean Air Act does not require States to impose RACT level VOC control in areas that have always been in attainment with the National Ambient Air Quality Standards (NAAQS) for ozone.

EFFECTIVE DATE: This rule will become effective on October 17, 1988.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at: (It is recommended that you telephone the contact person provided below before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, (5AR–26), Air and Radiation Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 Water Mark Drive, P.O. Box 1049, Columbus, Ohio 43266–0149

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio (312) 886–6088.

SUPPLEMENTARY INFORMATION: On April 9, 1986, the Ohio Environmental Protection Agency (OEPA) submitted, as a revision to its ozone SIP, a request to exempt the Huffy Corporation Bicycle Assembly Plant in Celina, Ohio from the requirements contained in Ohio Administrative Code (OAC) Rule 3745–

21-09(U)(1) of the Ohio ozone SIP. The current rule requires Huffy Corporation to comply by meeting emission limits between 3.5 and 4.3 pounds of volatile organic compound (VOC) per gallon of coating, excluding water (depending upon the coating used.) The request for a revision was submitted in the form of a change to Ohio's VOC rules. OAC Rule 3745-21-09 (U)(2)(j) contains this exemption for Huffy Corporation. This revision became effective in the State of Ohio on May 9, 1986.

On March 31, 1987 (52 FR 10241) USEPA proposed to approve this SIP revision for the following reasons:

(1) The Huffy Corporation is in Mercer County, which is a rural attainment area for ozone. The Clean Air Act does not require States to impose RACT level VOC control in areas that have always been in attainment with the National Ambient Air Quality Standards (NAAQS) for ozone;

(2) Approval of this SIP revision will not increase the historical VOC emission level from this source.[1] Under USEPA's existing policy, however, no demonstration of attainment and maintenance was required in the SIP for rural ozone attainment areas.

The notice of proposed rulemaking further stated that the original RACT limitation was imposed by the State, not to satisfy an ozone nonattainment SIP planning requirement, but rather to allow the State to have an accommodative SIP. The original principle of this accommodative ozone SIP for areas classified as attainment/unclassifiable was to require RACT-level controls on existing sources in lieu of requiring new major sources of VOC to do preconstruction monitoring. This monitoring would normally be required of new major sources in attainment/unclassifiable areas under USEPA's prevention of significant deterioration (PSD) regulations. The rationale behind this tradeoff is that the "extra" emission reductions obtained from these additional RACT controls would be able to accommodate new source growth in these attainment/unclassifiable areas. As a result of USEPA's final approval of this SIP revision for the Huffy Corporation, the plan for Mercer County can no longer be considered to contain RACT. Therefore, this approval cancels the accommodative SIP for Mercer County. This means that all major VOC sources and major modifications in this county must comply with all the PSD monitoring requirements. Because this portion of the State's accommodative SIP never had any effect relative to any designated ozone nonattainment area SIP, the RACT relaxation in this notice will also have no effect on nonattainment areas. All sources wishing to locate in nonattainment areas must comply with the State's federally approved Part D new source review program.

[1] USEPA wishes to clarify that this statement is based on the present use of coatings and present level of production. Changes in the use of the coatings and/or production level could, however, result in increased emissions.

Final Action

USEPA did not receive any public comments during the comment period provided in the notice of proposed rulemaking. Therefore, for the reasons stated above, USEPA is taking final action to approve this SIP revision for the Huffy Corporation in Mercer County, Ohio.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by Reference, Intergovernmental relations, Ozone.

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

Dated: August 25, 1988.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Ohio—Subpart KK

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

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7462.

2. Section 52.1870 is revised by adding new paragraph (c)(79) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(79) On April 9, 1986, the Ohio Environmental Protection Agency (OEPA) submitted a request for a revision to the Ozone State Implementation Plan (SIP) for the Huffy Corporation in Celina Ohio (Mercer County). This revision was in the form of a rule which is applicable to the Huffy Corporation in Mercer County.

(i) Incorporation by reference.

(A) Ohio Administrative Code (OAC) Rule 3745-21-09(U)(2)(j), effective May 9, 1986.

[FR Doc. 88-19779 Filed 9-14-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-332; RM-5751]

Radio Broadcasting Services; Oildale, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 237B1 for Channel 237A at Oildale, California, and modifies the Class A license of Buckley Broadcasting Corportion of California for Station KLLY(FM) as requested, to specify operation on the Class B1 channel, thereby providing that community with its first wide coverage area FM service. Reference coordinates for Channel 237B1 at Oildale are 35-30-01 and 119-00-14. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 14, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-332, adopted August 5, 1988, and released August 30, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, under Oildale, California, is amended by removing Channel 237A and adding Channel 237B1.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-21076 Filed 9-14-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Addition of Species by the Governments of Colombia and India to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service adds eight species of wildlife to 50 CFR 23.23, pursuant to their addition to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention). These additions were initiated at the requests of Colombia and India. Appendix III comprises species subject to regulation in particular party nations that have requested the cooperation of other Parties in controlling trade in such species.

DATES: These additions to Appendix III enter into effect on September 21, 1988, under the terms of the Convention. Therefore, this rule is effective on that date.

ADDRESSES: Send correspondence concerning this document to the Office of Scientific Authority, Mail Stop 527, Matomic Building, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. Background materials will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 537, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the above address, or telephone 202-653-5948.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain species of animals and plants. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes native species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Trade in Appendix III species, including any readily recognizable part or derivative, requires the issuance of either an export permit, a re-export certificate, or a certificate of origin. Export permits are required if the shipment originates from the nation that has added the species in Appendix III. Export to or from other Party nations requires presentation of "certificates of origin," or, in the case of re-export, "certificates from the nation of re-export," which show that the specimen was processed in that nation and/or is being re-exported.

This rule includes in the Code of Federal Regulations additions to Appendix III requested by the Governments of Colombia and India, pursuant to Article XVI, paragraph 1 of the Convention. Colombia requested the addition of seven species of birds, and India requested the addition of one species of mammal (names are given below under "Regulation Promulgation"). The Convetion's Secretariat notified all Party nations of these additions on June 23, 1988. In accordance with Article XVI, paragraph 2 of the Convention, these additions take effect 90 days after notification, i.e., on September 21, 1988.

Any Party may enter a reservation at any time on any species added to Appendix III, thereby exempting itself from implementing the Convention for that particular species. The limitations on the effect of reserving in alleviating importers and exporters from permit requirements was thoroughly discussed in a previous **Federal Register** document (52 FR 43924; November 17, 1987).

As previously proposed (52 FR 43924; November 17, 1987) and adopted (53 FR 9945; March 28, 1988, with printing errors corrected in 53 FR 12497; April 14, 1988), the Service has made a procedural change to usually request comments on reservations only at the time Appendix III additions of species to the Convention are included in the Code of Federal Regulations. With regard to the addition of the eight species covered by this rule, the Service does not perceive any significant biological, trade, or legal issue that would warrant recommending the entering of a reservation, and thus, it is unlikely comments on reservations would be received or reservations taken, as discussed more fully in the March 28, 1988, **Federal Register** (53 FR 9945) notice on the procedural change. For these reasons and because reservations can be entered at any future time if deemed appropriate, good cause exists to omit the proposed rule notice and public comment process, because it would be unnecessary and contrary to the public interest (5 U.S.C. 553(b)). Because the species covered in this notice will be added to Appendix III of the Convention effective September 21, 1988, and because of the other reasons mentioned above, the Service finds that good cause exists for making this rule effective upon the date that the species are added to Appendix III (5 U.S.C. 553(d)).

Public Comments

Therefore, the Service announces for the first time the listing of the eight species by Colombia and India. The Service does not propose to recommend a reservation and would consider doing so only if valid and compelling reasons are presented to show that implementation of the listing would be contrary to the interests or laws of the United States. Inasmuch as reservations to Appendix III can be entered *at any time,* the Service now solicits comments on taking of reservations on the listing of the eight species. The Service will consider any comments received and recommend entering reservations if appropriate.

Note.—The Department has determined that amendments to the Convention's Appendices, which result from actions of the Parties to the Convention, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321-4347). The Department also has determined that this listing action is not a rule for purposes of Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Notices on Appendix III species listings do not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

This document was prepared by Ron Nowak, Staff Zoologist, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulation Promulgation

For reasons set forth above, the Service amends Part 23 of Title 50, Code of Federal Regulations, as follows:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*

§ 23.23 [Amended]

2. Amend § 23.23(f) by revising the existing entry for the particular species on the list to read as follows:

Species	Common Name	Appendix	Date listed (month/day/year)
Class Aves:	Birds:		
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzins		
Crax rubra	Great curassow	III (Colombia, Costa Rica, Guatemala, and Honduras).	10/28/76

3. Amend § 23.23(f) by adding the following species of animals in alphabetical order under the appropriate taxonomic category:

Species	Common Name	Appendix	(Month/day/year)
Class Mammalia:	Mammals:		
Order Carnivora:	Carnivores: Cats, Bears, etc		
Melursus ursinus (=*Ursus ursinus*)	Sloth bear	III (India)	9/21/88
Class Aves:	Birds:		
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzins:		
Crax alberti	Blue-bellied curassow	III (Colombia)	9/21/88
Crax daubentoni	Yellow-knobbed curassow	do	9/21/88
Crax globulosa	Wattled curassow	do	9/21/88
Crax pauxi (=*Pauxi pauxi*)	Northern helmeted curassow	do	9/21/88
Order Passeriformes:	Perching Birds:		
Cephalopterus ornatus	Amazonian umbrellabird	do	9/21/88
Cephalopterus penduliger	Long-wattled umbrellabird	do	9/21/88

Dated: August 29, 1988.

Susan Reece,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-21074 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 53, No. 179
Thursday, September 15, 1988

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 76

Regulation of Uranium Enrichment Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On May 22, 1988 (53 FR 13276), the U.S. Nuclear Regulatory Commission (NRC) published for public comment an Advance Notice of Proposed Rulemaking (ANPR) related to the regulation of uranium enrichment facilities. The comment period for this ANPR was to have expired on July 21, 1988. By letter dated July 26, 1988, the U.S. Department of Energy (DOE) requested a ninety-day extension of the comment period. The principal reason given for the request for extension was that the DOE's review is not complete, and additional time was needed to provide detailed comments.

In view of the DOE's high interest in the rule, its experience and knowledge of the subject matter, and the likelihood that the additional comments will be helpful for development of a proposed rule, the NRC staff has decided to extend the comment period for an additional ninety days. The extended comment period now expires on October 22, 1988.

DATE: The comment period has been extended and expires on October 22, 1988. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: *Mail Comments to:* The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. Examine copies of comments received at: the NRC Public Document Room, 2120 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Leland C. Rouse, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (1-301) 492-3328. .

The authority citation for this document is: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201).

Dated at Rockville, Maryland, this 12th day of September 1988.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-21037 Filed 9-14-88; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 110, and 114

[NOTICE 1900-10]

Contributions and Expenditures; Communications, Advertising; Trade Associations

AGENCY: Federal Election Commission

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission requests comments on proposed revisions to its regulations at 11 CFR 100.7(b)(8), 100.8(b)(9), 110.11(a)(1)(iv)(A), and 114.8(f). Sections 100.7(b)(8) and 100.8(b)(9) exempt certain unreimbursed payments for transportation and subsistence costs from the definitions of contribution and expenditure. These regulations implement section 431(8) of the Federal Election Campaign Act of 1971, as amended, (the "Act" or "FECA"). 2 U.S.C. 431 *et. seq.* Comment is also sought on proposed changes to section 110.11(a)(1)(iv)(A) which addresses the disclaimer notice requirements for the solicitation of contributions by unauthorized committees. This provision implements section 441d(a) of the Act. Finally, the Commission seeks comments on a proposed revision of section 114.8(f) regarding trade association solicitation of parent and subsidiary corporations, pursuant to section 441b(b)(4)(D) of the Act.

Please note that the proposed rules that follow do not represent a final decision by the Commission on amendments to 11 CFR 100.7, 100.8, 110.11 or 114.8. Further information is provided in the supplementary information which follows.

DATE: Comments must be received on or before October 17, 1988.

ADDRESSES: Comments must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 376-5690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission seeks comments on three proposed revisions to its regulations at 11 CFR 100.7(b)(8), 100.8(b)(9), 110.11(a)(1)(iv)(A), and 114.8(f). Although these proposed rules address three unrelated areas, the Commission is combining them in a single rulemaking because the changes under consideration are discrete issues that do not require a larger scale rulemaking.

A. Travel Expense Exemption

An individual may make unreimbursed payments for personal travel expenses which are exempt from the definition of contribution if the payments do not exceed $1000 per candidate per election or $2000 on behalf of all political committees of a political party in a calendar year. 2 U.S.C. 431(8)(B)(iv). The Commission's regulations implement this exemption at sections 100.7(b)(8) and 100.8(b)(9). In the regulations, the Commission has treated the components of personal travel expenses as two separate categories, transportation costs and subsistence expenses. The limited exemption for travel costs has been applied solely to the costs incurred for transportation on a candidate's or party's behalf, while the amount of subsistence expenses have not been subject to limit under the Commission's rules.

When the travel expense exemption was first added to the Federal Election Campaign Act ("FECA") in 1974, it only covered volunteers. *See* 2 U.S.C. 431 (3)(5)(D) and (f)(4)(E) [1974]. Thus, the Commission's earliest regulations on this provision addressed a volunteer's transportation and subsistence

expenses. *See* 11 CFR 100.4(b)(6) and 100.7(b)(8) [1977]. The 1979 amendments to the FECA expanded the scope of persons who could travel under the exemption to include "individuals who are being paid by a candidate or party committee." H.R. Rep. 96–422, 96th Cong., 1st Sess. at 8. However, when the Commission's regulatons were redrafted in 1980 to reflect the new amendments, only the transportation exemption was broadened. The provision allowing volunteers to incur unlimited personal subsistence expenses in the course of their volunteer activity remained unchanged.

The Commission is now considering revising the subsistence exemption in §§ 100.7(b)(8) and 100.8(b)(9) to allow paid campaign staff and party committee employees to take advantage of the exemption. Since the role of paid employees differs from that of volunteers, however, the proposed rules would treat these two groups separately. Paid staff members would be permitted to defray their own subsistence expenses while they are paying their own transportation costs under the travel exemption. Volunteers would continue to be able to pay all of their subsistence costs incident to volunteer activity.

Congressional intent in expanding the statutory provision in 1979 appears to have been limited to allowing committee employees to take advantage of the transportation exemption. *See* H.R. Rep. 96–422, *supra*. Paid staff are likely, however, to travel extensively on a candidate's or party's behalf. An unlimited subsistence exemption for those persons could result in staff members paying considerable amounts for costs that should be paid by the committees as campaign or party expenditures. consequently, the Commission is proposing to limit payment of subsistence expenses by such employees to those they incur while traveling under the exemption, to make clear that costs paid by the employees at other times must be reimbursed or be considered contributions. This proposed limitation would not, of course, prohibit employees from paying their usual living costs when they are not on travel status.

The Commission is proposing to make two additional changes in these sections. First, §§ 100.7(b)(8) and 100.8(b)(9) would each be divided into two subsections, covering the exemption for transportation costs in paragraph (i) and for subsistence costs in paragraph (ii). In addition, paragraph (ii) would provide a definition of "usual and normal subsistence expenses," to include only the personal living expenses of the volunteer or staff member, such as food or lodging. Other expenses, such as the cost of renting a meeting room, would not be covered by the exemption. This proposed definition would be consistent with the definition of "subsistence" recently promulgated at 11 CFR 106.2(b)(2)(iii). *See* 52 FR 20864, 20875 (June 3, 1987).

B. Disclaimer Notice Requirements

In the second area addressed by this Notice, the Commission is considering a possible amendment to the disclaimer notice requirements set forth at 11 CFR 110.11(a)(1)(iv)(A). Section 441d(a) of the Act requires that communications which expressly advocate the election or defeat of a clearly identified candidate through general public political advertising include a disclaimer notice stating the name of the person who paid for the communication and whether the communication is authorized by a candidate, an authorized political committee of a candidate, or its agents. That section also requires that any person who solicits contributions thorugh general public political advertising shall include the same disclaimer notice, even if the solicitation does not contain any express advocacy language.

The current regulations at 11 CFR 110.11(a)(1)(iv)(A) require that solicitations directed to the general public on behalf of an unauthorized political committee clearly state the full name of the person who paid for the communication. The Commission proposes to revise this paragraph to reflect the additional statutory requirement that the solicitation state whether or not it was authorized by any candidate, any authorized political committee, or its agents. The purpose of this proposed revision is to bring 110.11(a)(1)(iv)(A) into closer conformity with the requirements of the Act in this area.

C. Trade Association Solicitations

The Act permits trade associations to solicit the executive or administrative personnel, stockholders, and families of such personnel and stockholders (the "restricted class") of the trade association's member corporations, subject to certain conditions. 2 U.S.C. 441b(b)(4)(D). Section 114.8(f) of the Commission's regulations applies this basic rule to situations in which a parent corporation is a member of the trade association but its subsidiary is not, or vice versa. As currently written, if the parent corporation is a member but the subsidiary is not, section 114.8(f) provides that the trade association may only solicit the restricted class of the parent. When discussing the reverse situation, however, that section states that the trade association is prohibited from soliciting only the "shareholders" of a non-member parent corporation. To make this provision consistent with the Act, the Commission is proposing to revise the second sentence of § 114.8(f) to state that the trade association may not solicit any of a non-member parent corporation's restricted class.

The Commission welcomes comments on the foregoing proposed amendments to 11 CFR 100.7(b)(8), 100.8(b)(9), 110.11(a)(1)(iv)(A), and 114.8(f).

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 110

Political committees and parties, Political candidates.

11 CFR Part 114

Business and industry, Elections.

Certification of no Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

These proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the requirements of the Act in these areas.

For the reasons set out in the preamble it is proposed to amend 11 CFR, Chapter I as follows:

PART 100—SCOPE AND DEFINITIONS

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

Authority: 2 U.S.C. 431, 438(a)(8).

2. By revising § 100.7(b)(8) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

* * * * *

(b) * * *

(8)(i) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or any political committee of a political party is not a contribution to the extent

that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed $1000 with respect to a single election; and on behalf of all political committees of each political party does not exceed $2000 in a calendar year.

(ii) Any unreimbursed payment from an individual's personal funds for the individuals's usual and normal subsistence expenses incurred while traveling under the exemption set forth in paragraph (b)(8)(i) of this section is not a contribution. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses which are incurred at any time incidental to volunteer activity is not a contribution. For purposes of this section, "usual and normal subsistence expenses" includes only disbursements for personal living expenses related to the particular individual traveling on committee business or related to the particular volunteer incidental to volunteer, activity, such as food and lodging.

* * * * *

3. By revising § 100.8(b)(9) to read as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(9) (i) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or political committee of a political party is not an expenditure to the extent that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed $1000 with respect to a single election; and on behalf of all political committee and on behalf of all political committees of each political party does not exceed $2000 in a calendar year.

(ii) Any unreimbursed payment from any individual's personal funds for that individual's usual and normal subsistence expenses incurred while traveling under the exemption set forth in paragraph (b)(9)(i) of this section is not an expenditure. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses which are incurred at any time incidental to volunteer activity is not an expenditure. For purposes of this section, "usual and normal subsistence expenses" includes only disbursements for personal living expenses related to the particular individual traveling on committee business or related to the particular volunteer incidental to volunteer activity, such as food or lodging.

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

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

Authority: 2 U.S.C. 431(8), 432(9), 432(c)(2), 437d(8), 438(a)(8), 441a, 442b, 441d, 441e, 441f, 441g, 441h, and 441i.

5. By revising § 110.11(a)(1)(iv)(A) to read as follows:

§ 110.11 Communications; advertising (2 U.S.C. 441d).

(a)(1) * * *

(iv)(A) For solicitations directed to the general public on behalf of a political committee which is not an authorized committee of a candidate, such solicitation shall clearly state the full name of the person who paid for the communication and, if a candidate is mentioned, whether or not such solicitation was authorized by any candidate, any authorized committee of a candidate, or its agent, regardless of whether the communication contains any express advocacy.

* * * * *

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

6. By revising the authority citation for Part 114 to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432(c), 437d(a)(8), 438(a)(8), and 441b.

7. By revising § 114.8(f) as follows:

§ 114.8 Trade associations.

* * * * *

(f) *Solicitation of a subsidiary corporation.* If a parent corporation is a member of the trade association, but its subsidiary is not, the trade association or its separate segregated fund may only solicit the parent's executive or administrative personnel and shareholders and their families; and no personnel of the subisidiary may be solicited. If a subisidiary is a member, but the parent is not, the trade association or its separate segregated fund may solicit the subsidiary's personnel and their families; it may not solicit the parent's executive or administrative personnel and shareholders or their families. If both parent and subsidiary are members, executive and administrative personnel and stockholders of each and their families may be solicited.

* * * * *

Thomas J. Josefiak,

Chairman, Federal Election Commission.

Dated: September 9, 1988.

[FR Doc. 88-21022 Filed 9-14-88; 8:45 am]

BILLING CODE 6715-01-M

11 CFR Part 110

[Notice 1988-9]

Rulemaking Petition; Notice of Disposition

AGENCY: Federal Election Commission.

ACTION: Notice of disposition of rulemaking petition.

SUMMARY: The Federal Election Commission announces its denial of a Petition for Rulemaking filed on November 30, 1987 by the Ted Haley Congressional Committee. 53 FR 2500 (Jan. 28, 1988). The petition requested that the Commission add a new subsection to its regulations at 11 CFR 110.1 to create a rebuttable presumption that post-election contributions are "for the purpose of influencing" a federal election.

EFFECTIVE DATE: September 15, 1988.

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

SUPPLEMENTARY INFORMATION: On November 30, 1987, the Ted Haley Congressional Committee filed a Petition for Rulemaking with the Commission. The petition requested that the Commission add a new subsection to its regulations at 11 CFR 110.1 to create a rebuttable presumption that post-election contributions are "for the purpose of influencing" a federal election. As the basis for its petition, the Committee relied upon the U.S. District Court's opinion in *Federal Election Commission v. Ted Haley Congressional Committee,* 654 F. Supp. 1120 (W.D. Wa. 1987), *Rev'd,* Nos. 87-3867 and 87-4248, slip op. at 8873 (9th Cir. July 22, 1988). Specifically, under the proposal by the petitioner, a contributor could demonstrate that his or her post-election contribution to a candidate was not for the purpose of influencing that candidate's election and, thus, should not be subject to limits of the Federal Election Campaign Act of 1971, 2 U.S.C. 431 *et seq.* even though the funds were raised and used to pay campaign debts. The Commission's current regulations, and long-standing policy, treat all such donations as contributions that are covered by FECA prohibitions and limitations. *See* 11 CFR 110.1.

The Commission sought public comment on the petition by issuing a Notice of Availability. 53 FR 2500 (January 28, 1988). Three written comments were received in respose to that notice. Of the three comments

received, two urged the Commission to deny the petition for rulemaking in its present form. The third did not take any position on the petition.

On July 22, 1988, the United States Court of Appeals for the Ninth Circuit issued its decision on the Commission's appeal of the district court's ruling in the *Haley* case. The court recognized that the Commission has, in both its regulations and prior advisory opinions, consistently emphasized that "funds raised after an election to retire election campaign debts are just as much for the purpose of infuencing an election and in connection with the election as are those contributions received before the election." *Haley*, Nos. 87-3867 and 87-4248, slip op. at 8882. Since 1976, when the Commission first promulgated 11 CFR 110.1, it has construed that regulation as making the Act's contribution limitations fully applicable to post-election contributions. The Commission's view is that if post-election contributions were not subject to the limitations of 2 U.S.C. § 441a, candidates and contributors would be able to circumvent the restrictions. It would be possible for a campaign to run at a deficit and then collect unlimited and unregulated contributions after the election. In reversing the decision of the lower court, the Court of Appeals held, "[t]his interpretation of FECA by the FEC through its regulations and advisory opinions is entitled to due deference and is to be accepted by the court unless demonstrably irrational or clearly contrary to the plain meaning of the statute." *Haley* at 8882.

One of the comments received on the petition suggested rejecting the Haley proposal but offered an alternative that would exempt post-election contributions received by presidential candidates who withdraw and do not run again for the presidency in the next election cycle. This alternative did not present any greater rationale for changing the Commission's policy in this area than did the original petition.

After reviewing the comments on the petition, and in light of the appellate decision upholding the Commission's longstanding policy, the Commission has decided to deny the Ted Haley Congressional Committee's petition for rulemaking. Therefore, at its open meeting of September 8, 1988, the Commission voted to deny the petition for rulemaking. Copies of the General Counsel's recommendation on which the Commission's decision was based are available for public inspection and copying in the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, (202) 376-3140 or toll free (800) 424-9530.

Thomas J. Josefiak,

Chairman, Federal Election Commission.

Dated: September 9, 1988.

[FR Doc. 88-21021 Filed 9-14-88; 8:45 am]

BILLING CODE 6715-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-16559; File No. S7-10-88]

Request for Comments on Certain Issues Arising Under the Investment Company Act of 1940 Relating to Payment of Asset-Based Sales Loads by Registered Open-End Management Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission today announced that it has extended from September 19, 1988, until December 14, 1988, the date by which comments on Investment Company Act Release No. 16431 (June 13, 1988) (53 FR 23258, June 21, 1988) must be submitted. The Commission believes that the extension of time will be beneficial since it will result in the receipt of additional useful comments.

DATES: Comments must be received on or before December 14, 1988.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. (Reference to File No. S7-10-88.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Rochelle G. Kauffman, Attorney, (202) 272-2038, or Brian M. Kaplowitz, Chief, (202) 272-2048, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

By the Commission.

Jonathan G. Katz,

Secretary.

September 9, 1988.

[FR Doc. 88-21028 Filed 9-14-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Exclusion From Resources of Funds Set Aside For Burial and Burial Spaces

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We propose to amend our regulations to reflect the changes made by section 9105 of Pub. L. 100-203 (the Omnibus Budget Reconciliation Act of 1987) and other policy changes concerning the treatment of burial spaces and certain funds set aside for burial expenses in the Supplemental Security Income (SSI) program.

DATES: To be sure that your comments are considered, we must receive them no later than November 14, 1988.

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

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 965-1756.

SUPPLEMENTARY INFORMATION: Section 9105 of Pub. L. 100-203 amended section 1613(d) (1) and (3) of the Social Security Act (the Act). Section 1613(d)(1), as amended, now provides that in determining the resources of an individual (and spouse, if any) for SSI purposes, up to $1,500 per person shall be excluded if separately identifiable and set aside for the burial expenses of the individual and/or the spouse, regardless of whether counting any portion of such amount would result in excess resources. Section 9105 has amended section 1613(d) (3) of the Act to provide that the penalty for use of excluded burial funds for a purpose

other than to meet burial expenses will apply only if the individual would have excess resources without application of the exclusion. In situations where the penalty applies, the amount of the penalty will be equal to the amount spent for purposes other than those for which the funds were set aside and will be applied as a dollar-for-dollar offset against future SSI benefits. These changes were effective April 1, 1988.

Prior to amendment by Pub. L. 100-203, section 1613(d) (1) of the Act provided for the exclusion of funds set aside for the burial of an individual and/or his spouse only when the inclusion of any portion of the funds in countable resources would cause the individual's resources to exceed the statutory limit. If the burial funds along with the individual's other countable resources did not exceed the limit, the funds were not excluded.

Section 1613(d)(3) provided, prior to amendment, that any excluded burial funds used for a purpose other than to meet burial expenses resulted in a dollar-for-dollar offset of future SSI benefits. Additionally, section 1613(d)(2) of the Act still provides that the $1,500 burial fund exclusion shall be reduced by the face value of any life insurance policies the cash surrender value of which has been excluded from resources and the value of any irrevocable burial arrangements. Further, section 1613(d)(4) of the Act allows the Secretary to provide by regulations for the exclusion from income and resources of appreciation in the value of and interest earned on and left to accumulate as part of excluded burial funds. Regulations at 20 CFR 416.1231(b)(6) provide for the exclusion from resources of such interest and appreciation if left to accumulate in the fund. Thus, the amount excluded as burial funds may exceed $1,500 due to appreciation or accumulated interest.

Burial Funds—Proposed Policy Changes

In addition to the revisions required by the statutory changes to sections 1613(d)(1) and (d)(3), we are also proposing policy changes to the current regulations at 20 CFR 416.1231. Current regulations at 20 CFR 416.1231(b)(3) define burial funds as revocable burial contracts, burial trusts or other burial arrangements or any other separately identifiable funds which are clearly designated as set aside for the burial expenses of an individual (or spouse, if any). Over the years, the operational definition of burial funds has gradually expanded to encompass assets other than funds, sometimes even permitting exclusion of automobiles and livestock.

We propose to implement a definition of burial funds which closely tracks the original intent of the provision and is more in accordance with the commonly accepted definition of "funds." Under this change, burial funds will be defined as revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments (documents which have a definite cash value) clearly designated for burial expenses. Real property or personal property other than listed above will not be considered "funds."

Regulations of 20 CFR 416.1231(b)(1) state that burial funds must be kept separate from other resources in order for the exclusion to apply. Over time, operational procedures have interpreted "separated" to permit commingling of funds as long as they are kept identifiable.

We propose to implement the statutory and regulatory requirement that funds be kept "separately identifiable" to conform more closely with the language of section 1613(d)(1) of the Act and with the legislative history of section 9105 of Pub. L. 100-203 (H. Rep. No. 495, 100th Cong., 1st. Sess. 824-825 (1987)). That is, we would require not only clear designation of the purpose of the fund, but also segregation of excluded burial funds from all other resources, including burial spaces. This policy will eliminate time-consuming and often complex monthly computations which are not necessary when excluded and nonexcluded funds are commingled so that only part of the interest or appreciation is excludable.

Under these two proposed changes, we will require recipients to convert resources currently excluded for burial that do not meet the new definition of "funds" into resources that do, and to segregate excluded burial funds from all other assets, unless there is an impediment to conversion/segregation; i.e., a circumstance beyond an individual's control which makes conversion/segregation impossible or impracticable. For example, if an individual has 1 acre of a 4-acre parcel of land designated as burial funds and zoning restrictions prevent him or her from subdividing the land and selling only 1 acre, he or she is unable to convert the previously excluded land to conform with the new definition of burial funds. We will exclude the property until such a time as it can be converted. To lessen the effect of these changes, an individual will have until the first moment of the second month following the month of the first field office initiated redetermination on or after the effective date of these regulations to convert/segregate burial funds not meeting these proposed rules. For so long as an impediment exists, we will continue to exclude the burial fund if the individual remains otherwise continuously eligible for the exclusion. Prospectively, real property and personal property which do not meet the more restrictive definition of burial funds will not be excluded; commingling of excluded burial funds with any other excluded or nonexcluded resources, even with burial spaces and nonexcluded burial funds, will not be permitted, and commingled funds will not be eligible for the exclusion.

Current regulations at 20 CFR 416.1231(b)(6) provide for the exclusion of appreciation in the value of burial funds, as well as interest earned on, and left to accumulate as part of, excluded burial funds. Thus, the amount excluded as burial funds may exceed $1,500 due to appreciation or accumulated interest. If an individual's eligibility is suspended or terminated and thereafter reinstated, only his or her burial funds up to the $1,500 limit may be excluded. Any previously excluded interest and appreciation above the $1,500 limit are countable resources.

We propose to extend the burial funds exclusion throughout a period of suspension of up to 12 months as described at 20 CFR 416.1321, so long as the individual's eligibility has not been terminated under 20 CFR 416.1331 through 416.1335. Thus, during a period of suspension, appreciation in the value of excluded burial funds and interest earned on (and left to accumulate as part of) excluded burial funds would also be excluded from resources. The result would be continued exclusion of accumulated interest and appreciation when the individual once again becomes eligible for SSI, even if such amounts cause the total excluded to exceed $1,500. This extension of the exclusion is based on the Secretary's authority under section 1613(d)(4) of the Act to determine by regulations how accrued interest and appreciation are to be excluded. However, the exclusion of interest and appreciation accumulated on excluded burial funds while an individual is eligible based on one application will not be carried over into a new period of eligibility based on a subsequent application to the extent that it would result in burial funds in excess of the $1,500 limit. This distinction is consistent with the distinction in treatment we make in other SSI policies between individuals whose benefits are merely suspended and those whose benefits are terminated.

Burial Spaces—Proposed Policy Change

Section 1613(a)(2)(B) of the Act excludes from resources the value of any burial space (subject to such limits as to size and value as the Secretary may prescribe) held for the burial of an eligible individual or member of his immediate family. The statute does not define a "burial space."

Current regulations at 20 CFR 416.1231(a)(2) define burial spaces as "conventional gravesites, crypts, mausoleums, urns and other repositories which are customarily and traditionally used for the remains of deceased persons." Over time, operational procedures have included in the definition of burial spaces coffins, vaults or liners, headstones or other grave markers and the cost of opening and closing graves.

We propose to specify in regulations at 20 CFR 416.1231(a)(2), the broader operational definition of burial spaces. Burial spaces will include burial plots, gravesites, crypts, mausoleums, urns, niches or other customary and traditional repositories for the deceased's bodily remains. Additionally, the term will include improvements or additions to or upon such spaces including, but not limited to, vaults, headstones, markers, plaques, or burial containers and arrangements for opening and closing the gravesite for burial of the deceased.

The change in the regulatory definition is made based on the Secretary's general rulemaking authority since the Act does not define burial spaces. The operational definition of burial spaces has expanded over time based on the regulatory definition of "other repositories that are customarily and traditionally used for the remains of deceased persons." This change clarifies the regulatory definition specifically to include other items which are in the form of improvements or additions to or upon the actual space and are reasonably necessary and incidental to the disposition of the deceased's remains.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that these are not major rules under Executive Order 12291 since the program and administrative costs of this regulation will be insignificant and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no additional reporting and recordkeeping requirement requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

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

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

List of Subjects in 20 CFR Part 416

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

Dated: July 13, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 4, 1988.

Otis R. Bowen.

Secretary of Health and Human Services.

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

PART 416—[AMENDED]

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

Authority: Secs. 1102, 1602, 1602, 1611, 1612, 1613, 1614(f), 1621 and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1832j and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

2. Section 416.1231 is amended by revising paragraphs (a)(2), (b)(1) and (b)(3), redesignating the existing paragraphs (b)(4) through (b)(7) as paragraphs (b)(5) through (b)(8), adding a new paragraph (b)(4), revising redesignated paragraphs (b)(7) and (b)(8), and adding a new paragraph (b)(9) to read as follows:

§ 416.1231 Burial spaces and certain funds set aside for burial expenses.

(a) * * *

(2) *Burial spaces defined.* For purposes of this section "burial spaces" include burial plots, gravesites, crypt, mausoleums, urns, niches and other customary and traditional repositories for the deceased's bodily remains. Additionally, the term includes necessary and reasonable improvements or additions to or upon such burial spaces including, but not limited to, vaults, headstones, markers, plaques, or burial containers and arrangements for opening and closing the gravesite for burial of the deceased.

* * * * *

(b) *Funds set aside for burial expenses.*

(1) *Exclusion.* In determining the resoruces of an individual (and spouse, if any) there shall be excluded an amount not in excess of $1,500 each of funds specifically set aside for the burial expenses fo the individual or the individual's spouse. This exclusion applies only if the funds set aside for burial expenses are kept separate from all other resources, including burial spaces and nonexcluded burial funds, and are clearly designated as set aside for the individual's (or spouse's) burial expenses. If excluded burial funds are mixed with other resources, the exclusion will not apply to any portion of the funds. This exclusion is in addition to the burial space exclusion.

* * * * *

(3) *Burial funds defined.* For purposes of this section "burial funds" are revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments with a definite cash value clearly designated for the individual's (or spouse's, if any) burial expenses and kept separate from other assets. Property other than listed in this definition will not be considered "burial funds."

(4) *Recipients currently receiving SSI benefits.* Recipients currently eligible as of *(effective date of regulation)* who have had burial funds excluded which do not meet all of the requirements of paragraphs (b)(1) and (3) of this section must convert or segregate such funds to meet these requirements unless there is an impediment to such conversion or segregation; i.e., a circumstance beyond an individual's control which makes conversion/segregation impossible or impracticable. For so long as such an impediment or circumstance exists, the burial funds will be excluded if the individual remains otherwise continuously eligible for the exclusion.

* * * * *

(7) *Increase in value of burial funds.* Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which occur beginning November 1, 1982, or the date of first SSI eligibility, whichever is later, are excluded from resources if left to accumulate and become part of the separate burial fund.

(8) *Burial funds used for some other purpose.* (i) Excluded burial funds must be used solely for that purpose. (ii) If

any excluded funds are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future SSI benefits of the individual (or the individual and eligible spouse) will be reduced by an amount equal to the amount of excluded burial funds used for another purpose. This penalty for use of excluded burial funds for a purpose other than the burial arrangements of the individual (or spouse) will apply only if, as of the first moment of the month of use, the individual would have had resources in excess of the limit specified in § 416.1205 without application of the exclusion.

(9) *Extension of burial fund exclusion during suspension.* The exclusion of burial funds and accumulated interest and appreciation will continue to apply throughout a period of suspension as described in § 416.1321, so long as the individual's eligibility has not been terminated as described in §§ 416.1331 through 416.1335.

[FR Doc. 88-21063 Filed 9-14-88; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 50

[Docket No. 84N-0036

Proposed Removal of Regulation Regarding Sulfonamide-Containing Drugs for Use in Food-Producing Animals

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to remove its regulation providing for interim marketing for drugs containing sulfamethazine, sulfaquinoxaline, sulfamerazine, sulfathiazole, sulfapyridine, or sulfanilamide for oral, injectable, intramammary, or intrauterine use in food-producing animals. The agency is proposing this action following its review of the data, labeling, and other information submitted to the agency by sponsors of pending new animal drug applications (NADA's) for sulfonamide-containing drugs permitted interim marketing privileges under provisions of the regulation. If the regulation is removed, any sulfonamide-containing drug product on the market intended for use in food-producing animals that is not the subject of an approved NADA will be subject to regulatory action. In the near future, FDA's Center for Veterinary Medicine (CVM) will either approve the NADA's or publish notices of opportunity for hearing on denial of approval of the NADA's.

DATES: Comments by November 14, 1988. FDA is proposing that any final rule based on this proposal take effect for any sulfonamide-containing drug product intended for use in food-producing animals that is not the subject of an approved NADA by 90 days after the final rule's date of publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 208957.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Center for Veterinary Medicine (HFV-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION:

I. History of § 510.450

Section 510.450 was initially promulgated as § 135.102 (21 CFR 135.102) in the **Federal Register** of October 23, 1970 (35 FR 16538). As a provision of Subpart B of 21 CFR Part 135, the regulation constituted one of FDA's statements of policy and interpretation regarding animal drugs and medicated feeds and applied to all oral or parenteral sulfonamide-containing drugs for use in food-producing animals. Section 135.102 required sponsors of such drugs to submit, within 1 year (by October 22, 1971), residue depletion data to permit the agency to establish withdrawal periods for the durgs' use that would ensure that edible products from treated animals are safe for consumption. Section 135.102 established as an interim measure a 5-day withdrawal period for poultry and a 10-day withdrawal period for all other food-producing animals. FDA promulgated § 135.102 because new information available to the agency showed that, under certain circumstances where food-producing animals had been treated with oral or parenteral sulfonamide-containing drugs, the drugs could be detected in the edible products of such animals when they were slaughtered within 10 days of the last treatment (35 FR 16538).

In the **Federal Register** of July 20, 1973 (38 FR 19404), FDA advised that all sulfonamide-containing drugs labeled for oral, injectable, intrauterine, or intramammary use in food-producing animals are new animal drugs within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)), for which approved NADA's are required under section 512(a) of the act (21 U.S.C. 360(a)). The agency's determination that such drugs are new animal drugs was based in part on the results of then recently available studies raising concerns about thyroid toxicity associated with exposure to sulfonamide-containing drugs, and in part on the lack of adequate data to establish the safety of residues of such drugs in edible products. Accordingly, FDA proposed to revise § 135.102 to permit firms marketing products containing sulfonamide drugs that were not the subject of approved NADA's to continue marketing the products on an interim basis, provided they submitted NADA's by October 18, 1973, and made a commitment to conduct and submit the results of 90-day feeding studies (toxicity studies) in one rodent and one nonrodent species so that the degree of thyroid response to sulfonamide drugs could be evaluated. FDA also stated that if an evaluation of the results of those studies showed that the existing methods used to establish tolerances for residues of sulfonamide-containing drugs in edible products were not of adquate specificity and sensitivity, the agency would require sponsors to develop more specific and sensitive methods.

In the **Federal Register** of July 22, 1974 (39 FR 26633), FDA published a final rule amending § 135.102 as proposed on July 20, 1973. In the preamble to the final rule, the agency explained that:

1. All sulfonamide-containing drugs for oral, injectable, intramammary, and intrauterine use in food-producing animals are now deemed to be new animal drugs for which an approved NADA will be required.

2. The results of 90-day subacute toxicity studies must be submitted by each sponsor of such drugs for their continued use as a basis for determining a "no-effect" level in laboratory animals.

3. Residue data must be submitted on each species and under the recommended conditions of use for each such drug to establish safe withdrawal periods and to assure that edible products from treated animals are safe for human consumption.

The final rule provided that the results of the "subacute toxicity studies" were to be submitted by July 22, 1975. That date was extended to October 22, 1975 (40 FR 43213; September 19, 1975). The final rule required sponsors of approved NADA's that had not already submitted the studies and the new methods, as

well as sponsors that had been given interim marketing privileges, to submit such information. The final rule established January 20, 1975, as the due date for NADA's for sulfonamide-containing drugs permitted interim marketing privileges. FDA has not given such privileges to sponsors that did not meet that deadline.

In the **Federal Register** of March 27, 1975 (40 FR 13802 at 13808), § 135.102 was redesignated as § 510.450 (21 CFR 510.450) and was reissued under Subpart E—Requirements for Specific New Animal Drugs of Part 510.

In the **Federal Register** of December 9, 1977 (42 FR 62211), FDA announced that all firms marketing sulfamethazine-containing products for use in swine feed or drinking water had been requested by letter to submit labeling bearing a 15-day withdrawal period prior to slaughtering treated animals for food. In the **Federal Register** of May 5, 1978 (43 FR 19385), FDA amended § 510.450 to require that products containing sulfamethazine intended for use in swine feed or drinking water be labeled with a 15-day withdrawal period.

By January 20, 1975, 28 firms had submitted 229 NADA's requesting interim marketing of sulfonamide-containing products under § 510.450. By July 1984, products covered by 189 pending NADA's held by 23 firms were permitted interim marketing under § 510.450; the sulfonamide-containing products covered by the remaining NADA's were no longer being marketed. Throughout the 1970's and early 1980's, the agency communicated extensively with the sponsors of the NADA's, orally and in writing, concerning the data, labeling, and other information necessary for approval of the NADA's. FDA has not approved, under section 512(c) of the act, any of these NADA's.

II. The July 5, 1984 Notice

FDA, in the **Federal Register** of July 5, 1984 (49 FR 27543) (corrected 49 FR 31444; August 7, 1984), announced plans for the termination of interim marketing under § 510.450 for drugs containing sulfamethazine, sulfaquinoxaline, sulfamerazine, sulfathiazole, sulfapyridine, or sulfanilamide or oral, injectable, intramammary, or intrauterine use in food-producing animals. The July 1984 notice listed the 23 firms that had submitted NADA's for sulfonamide-containing drugs under the provisions of § 510.450, together with the NADA numbers and product names for products then marketed under the regulation, and requested that sponsors of NADA's covered by interim marketing submit a statement of intent with regard to continued marketing of their products. The July 1984 notice then requested that the sponsors submit data, revised labeling, and other information necessary for approval of an NADA. The July 1984 notice stated that after evaluation of the information with respect to each NADA, FDA would either approve the NADA or publish notices of opportunity for hearing on denial of approval of the pending NADA's. Finally, the July 1984 notice stated that, at the same time, the agency would publish a proposed rule to remove § 510.450, and that after a final rule removing § 510.450 because effective, any sulfonamide-containing drug on the market intended for use in food-producing animals that was not the subject of an approved NADA would be in violation of the act and subject to regulatory action, unless covered by a statutorily provided exception to the requirement of an NADA.

At the time of the July 1984 notice, sulfonamide-containing products covered by 189 pending NADA's were permitted interim marketing under § 510.450. FDA received letters from the 23 firms listed in the July 1984 notice. Eight firms requested termination of 32 NADA's. Twenty-one firms indicated their intent to furnish the information necessary for approval of 157 NADA's. Nine of the 21 firms submitted some of the necessary information (for 17 of their 65 NADA's); 14 of the 21 firms did not submit any of the information (for 92 NADA's). None of the 23 firms listed in the July 1984 notice furnished all the data, labeling, and other information necessary for approval of any of the 189 NADA's in question

On May 23, 1986, FDA wrote the sponsors of each of the then pending 157 NADA's, once again advising each sponsor of deficiencies in each NADA that precluded approval and of the data, revised labeling, and other information necessary for approval. At present, sulfonamide-containing products covered by 142 pending NADA's held by 11 firms are permitted interim marketing under § 510.450; the sulfonamide-containing products covered by the remaining NADA's are no longer being marketed. None of the 142 pending NADA's containing all the data, labeling, and other information necessary for approval. Indeed, as discussed above, only nine sponsors (for 17 of their 65 NADA's) submitted even part of the data, labeling, and other information specified in the July 1984 notice. In addition, each of those NADA's is also deficient in one or more other respects, e.g., inadequate manufacturing and controls information or lack of an environmental assessment.

III. The Proposed Rule

For the sake of simplicity and consistency, FDA is now proposing to remove § 510.450 in its entirety. The agency advises, however, that it is specifically reaffirming that two provisions of the regulation continue to represent FDA's interpretation of the act, even though the agency is not proposing to retain them in the Code of Federal Regulations. Those provisions are as follows:

1. The presence of sulfonamide residues in food constitutes an adulteration within the meaning of section 402(a)(2)(D) of the act (21 U.S.C. 342(a)(2)(D)) in the absence of a tolerance for such residues established pursuant to section 512(i) of the act.

2. Sulfonamide-containing drugs for oral, injectable, intrauterine or intramammary use in food-producing animals are new animal drugs for which approved new animal drug applications are required.

FDA is proposing to remove § 510.450 for three reasons.

1. As explained in Section II of this preamble, only nine sponsors of 17 NDDA's (out of 23 sponsors of the 189 NADA's covering interim marketing of sulfonamide products under § 510.450 when the July 1984 notice was published) have submitted any data, labeling, or other information in response to the July 1984 notice, and none of those sponsors has submitted all the data, labeling, and other information necessary for approval, as specified in that notice. Four years have elapsed since publication of the July 1984 notice. In accordance with its plans to terminate interim marketing under § 510.450, announced in that notice, the agency is proposing to remove the regulation, thereby discontinuing the marketing privileges that it provided.

2. As explained in Section I of this preamble, interim marketing of sulfonamide-containing products intended for use in food-producing animals has been permitted since 1970, and since 1973 FDA has made it clear that it regards those products as new animal drugs requiring approved NADA's. Throughout the existence of § 510.450 (and its predecessor, § 135.102), the agency has attempted to persuade sponsors of the NADA's covering interim marketing of sulfonamide-containing products to submit to their NADA's data, labeling, and other information necessary for approval. Accordingly, it is appropriate to terminate interim marketing under 21 CFR 510.450.

3. Although there are narrowly defined circumstances in which FDA may affirmatively permit the marketing of a violative product, see, e.g., *CNI* v. *Young*, 818 F.2d 943, 949–50 (D.C. Cir. 1987); *Public Citizen* v. *Schmidt*, No. 76–405 (D.D.C. 1976) [1]; and the Paragraph XIV exemption developed in response to *American Public Health Ass'n* v. *Veneman*, 349 F. Supp. 1331 (D.D.C. 1972), FDA does not have the authority to convey a right to market an unapproved new animal drug. See *Hoffman-LaRoche, Inc.* v. *Weinberger*, 425 F. Supp. 890, 894 (D.D.C. 1975); *Culter* v. *Kennedy*, 475 F. Supp. 838, 854 (D.D.C. 1979); see also *American Public Health Ass'n* v. *Veneman, supra*. In the circumstances of this matter (see Sections I and II Of this preamble), the agency believes that interim marketing of sulfonamide-containing products is no longer consistent with the law or justified by the facts.

FDA also notes that additional questions have been raised concerning the safety (carcinogenicity) of sulfamethazine in light of the results of chronic bioassays of sulfamethazine in mice (Ref. 1) and rats (Ref. 2) conducted by the National Center for Toxicological Research (NCTR). (The mouse study is discussed in 53 FR 15886 at 15888 (May 4, 1988); the rat study is discussed in 53 FR 17850 (May 18, 1988).) The data from NCTR's mouse and rat studies are undergoing review by the National Toxicology Program and FDA, and the agency will not reach any final conclusions on the presence or absence of tumors in the test animals and on the significance of any tumors in the test animals until the reviews are completed. FDA believes, however, that the additional questions that have been raised about the safety of sulfamethazine provide further support for the removal of § 510.450 insofar as it provides for interim marketing of sulfamethazine-containing products. But the agency stresses that any final rule based on this proposal to terminate interim marketing, as previously announced in the July 1984 notice, will not depend on the results of the reviews of the NCTR studies.

IV. Effective Date

Because of the extent of use of sulfonamide-containing products over many years and the need for an orderly transition to the use of approved new animal drugs, FDA is proposing that any final rule based on this proposal become effective for any sulfonamide-containing drug product that is not the subject of an approved NADA by 90 days after the final rule's date of publication in the **Federal Register**. As FDA stated in the July 1984 notice (49 FR 27547), after any final rule removing § 510.450 becomes effective, any sulfonamide-containing drug product on the market intended for use in food-producing animals that is not the subject of an approved NADA will be in violation of the act and subject to regulatory action, unless covered by a statutorily provided exception to the requirement of an NADA.

In the July 1984 notice, FDA stated that it intended to publish notices of opportunity for hearing on denial of approval of the pending NADA's for sulfonamide-containing drugs for use in food-producing animals that are covered by interim marketing at the same time it published this proposal to remove § 510.450. The agency has reconsidered its earlier statement of intent and concluded that publication of this proposal should not await publication of the notices of opportunity for hearing, given the history of § 510.450 and the agency's unsuccessful attempts to persuade the sponsors of those NADA's to submit the data, labeling, and other information necessary for approval (see Sections I and II of this preamble). In the near future, however, CVM will publish a notice of opportunity for hearing on denial of approval for those applications.

V. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

VI. Economic Impact

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

This proposed rule will affect approximately 11 firms sponsoring 142 NADA's for sulfonamide-containing products. It is estimated that 5 of these firms market products that generate sales at levels that might warrant their gathering the data required to obtain NADA approval. These products account for a small share of the present market for therapeutic sulfonamide-containing products. The remaining six firms have insignificant sales of such products and might not undertake to gather the data required to obtain NADA approval. The 11 affected firms are the remaining marketers of sulfonamide-containing products among 23 firms sponsoring NADA's for such products covered by interim marketing for many years.

The agency estimates that the costs of studies resulting from this proposed rule will total less than $3 million for all the affected products with significant sales. This estimate is based on the expectations that residue depletion studies will be conducted for four to six chemical entities of sulfonamides and that bioequivalency studies will be conducted for about half of the currently marketed sulfonamide-containing products. The economic consequences of the requirement for conducting the studies in question should have been anticipated by the affected firms because the eventual obligation to gather the data required to obtain NADA approval was inherent in the conditions of the interim marketing privileges. Firms that made appropriate financial provisions for gathering the requisite data during 17 years of marketing sulfonamide-containing products should experience no adverse economic effects from the termination of interim marketing. All but one of the sulfonamide-containing products affected by this proposal have approved substitute products available for use. The one drug without an approved substitute is sulfaquinoxaline used to treat fowl cholera in pheasants and quail. This product is not used extensively and the termination of interim marketing is not expected to produce adverse economic effects.

VII. References

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

1. NCTR Technical Report 418: "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in B6C3F$_1$ Mice."

2. NCTR Technical Report 420: "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in Fischer 344 Rats."

[1] *Public Citizen* v. *Schmidt* held that FDA could reasonably decide to leave drugs containing a carcingogen, chloroform, on the market for three and a half months following publication of a final rule prohibiting the use of chloroform in drugs.

VIII. Request for Comments

Interested persons may, on or before November 14, 1988, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 510 be amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 is revised to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10, 5.83, and 5.84.

§ 510.450 [Removed]

2. Section 510.450 *Sulfonamide-containing drugs for oral, injectable, intramammary, or intrauterine use in food-processing animals* is removed.

Dated: August 23, 1988.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 88-21057 Filed 9-14-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 23-88]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to exempt a Privacy Act system of records from subsections (c)(3) and (d) of the Privacy Act, 5 U.S.C. 552a. This system is the "Freedom of Information; Privacy Acts Records, JUSTICE/OSC-004." Records contained in this system relate to official Federal investigations and matters of law enforcement. The exemptions are needed to protect ongoing investigations, as well as the privacy of third parties and the identities of confidential sources involved in such investigations.

DATE: Submit any comments by October 17, 1988.

ADDRESS: Address all comments to J. Michael Clark, Assistant Director, Facilities and Administrative Services Staff, Justice Management Division, Department of Justice, Room 6402, 601 D Street, NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: J. Michael Clark, (202) 272-6474.

SUPPLEMENTARY INFORMATION: In the Notice Section of today's **Federal Register**, the Department of Justice provides a description of the "Freedom of Information; Privacy Acts Records, JUSTICE/OSC-004."

Pursuant to the requirements of the Regulatory Felxibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in Part 16

Administrative Practice and Procedure, Courts, Freedom of Information, Privacy and Sunshine Acts.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, it is proposed that 28 CFR 16.78 be amended by revising paragraph (a) as set forth below.

Date: August 23, 1988

Harry H. Flickinger,

Assistant Attorney General for Administration.

1. The authority for Part 16 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483a unless otherwise noted.

2. It is proposed to amend 28 CFR 16.78 by revising paragraph (a) to read as follows:

§ 16.78 Exemption of the Special Counsel for Immigration Related Unfair Employment Practices Systems.

(a) The following systems of records are exempt from 5 U.S.C. 552a (c)(3) and (d).

(1) The Central Index File and Associated Records, JUSTICE/OSC-001

(2) Freedom of Information; Privacy Acts Records, JUSTICE/OSC-004

These exemptions apply to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

* * * * *

[FR Doc. 88-21068 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3447-3]

Florida; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination for final authorization on application of Florida for program revision, public comment period, and public hearing.

SUMMARY: Florida has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Florida's application and has made a tentative determination subject to public review and comment, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Florida's hazardous waste program revisions. Florida's application for program revision is available for public review and comment.

DATES: A public hearing is scheduled for October 20, 1988. Florida will participate in the public hearing held by EPA on this subject. Comments on Florida's program revision application must be received by the close of business on October 13, 1988.

ADDRESSES: Copies of Florida's program revision application are available from 8:00 a.m. to 4:00 p.m. at the following addresses for inspection and copying: Florida Department of Environmental Regulation, Twin Towers Office Building, Room 421, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, Telephone (904) 488-0300; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 382-5926; U.S. EPA Region IV, Library, 345 Courtland Street, NE., Atlanta, Georgia, 30365, Telephone: (404) 347-4216. Written comments should be sent to: Mr. Otis Johnson, Jr., Chief, Waste Planning Section, RCRA Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia, 30365, Telephone: (404) 347-3016. EPA will hold the public hearing on October 20, 1988, at 2:00 p.m. in Room 609, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Individuals with handicaps

requiring special assistance should contact Mr. Fletcher Herrald at (904) 488-0300 by October 17, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Otis Johnson, Jr., Chief, Waste Planning Section, RCRA Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: (404) 347-3016.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6929(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260 through 266 and 124 and 270.

B. Florida

Florida initially received final authorization of its hazardous waste program on February 12, 1985 (50 FR 3908, January 29, 1985). On February 27, 1987, Florida submitted a final program revision application For non-HSWA requirements promulgated through June 30, 1985. Florida received final authorization for these revisions on March 1, 1988 (53 FR 127, January 5, 1988). Florida was placed on a schedule of compliance to obtain program modifications for section 3006(f), Availability of Information (AOI) of the HSWA (52 FR 26013, July 10, 1987). Today, Florida is seeking approval of its program revisions for the following authorities through June 30, 1986, in accordance with 40 CFR 271.21(b)(4).

Federal requirement	State authority
Closure, Post-Closure and Financial Responsibility Requirements: Settlement Agreement 51 *FR* 16443-16459, May 2, 1986.	F.S. 403.704(16). F.S. 403.722. F.A.C. 17-30.020(1). F.A.C. 17-30.180(1)(2). F.A.C. 17-30.290 (1)(a) and (4). F.A.C. 17-30.300.
Listing of Spent Pickle Liquor (K062) 51 *FR* 19320 as amended at 51 *FR* 33612, May 28, 1986 and September 22, 1986.	F.S. 403.704(16). F.S. 403.72(1). F.A.C. 17-30.030(1).
RCRA Section 3006(f): Availability of Information 40 CFR Part 2 Subpart A 5 U.S.C. 552.	F.S. 119.07. F.S. 119.011. F.S. 119.12. F.S. 120.68. F.A.C. 17-30.310.

EPA has reviewed Florida's application, and has made a tentative determination, subject to public review and comment, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. EPA recognizes Florida's lack of a provision for waiver of fees for information in the public interest as specified at 40 CFR 2.120(d). Florida Statute 119.07 requires that all requestors be charged, at a minimum, the actual cost of photocopying. The Florida Department of Environmental Regulation furnishes copies of public records according to the following formula taken directly from section 2.10 of Florida's Administration Services Internal Management Policies and Procedures.

Florida's copying fees provide:

The charge for photocopies of public records and for all photocopies not directly related to the official duties of the department shall be $.05 per page. In order to provide a uniform method of billing for personnel time when more than 100 copies are made or when more than 30 minutes is required to make copies, the charge for extensive assistance shall be based on the total salary cost of the employee who actually makes the copies or performs the related work, and (is) calculated as follows:

The employee's monthly salary divided by 174 hours equals the employee's hourly rate. The hourly rate multiplied by 1.046 equals total hourly salary cost including fringe benefits. The total hourly salary cost multiplied by the hours or fraction thereof spent on the photocopy assignment equals the additional charge for extensive personnel services.

When photocopies are made for private firms and individuals, the money must be collected at the time the photocopies are delivered. Photocopies shall not be delivered to private firms and individuals prior to collection of the appropriate amount. If governmental agencies are to be charged for photocopies, it is permissible to bill them using prenumbered invoice forms available from the Bureau of Accounting and Budgeting.

It is the Region's opinion that this fee structure does not place an undue burden on citizens or public interest groups requesting information from the State of Florida. Florida's fees for photocopies are lower than equivalent Federal fees. Further, Florida's information release provisions are more stringent in some respects than EPA's provisions, *i.e.*, Florida law, unlike Federal law, does not provide protection for Confidential Business Information. EPA therefore intends to grant Florida final authorization for the additional program modifications. EPA solicits comments on this proposed decision.

In accordance with section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on its tentative decision to approve Florida's program revision on October 20, 1988, at 2:00 p.m., Room 609, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301. The public may also submit written comments on EPA's tentative determination until October 13, 1988. Copies of Florida's application are available for inspection and copying at the location indicated in the "Addresses" section of this notice.

EPA will consider all public comments on its tentative determination received at the hearing or during the public comment period. Issues raised by those comments may be the basis for a decision to deny final authorization to Florida. EPA expects to make a final decision on whether or not to approve Florida's program by December 1, 1988 and will give notice of it in the **Federal Register.** The notice will include a summary of the reasons for the final determination and a response to all major comments.

Florida is not seeking authorization to operate on Indian Lands.

C. Decision

Today's tentative determination does not include authorization of Florida's program for any requirement implementing the RCRA or the HSWA. EPA expects to make a final decision on whether or not to approve Florida's program by December 1, 1988 and will give notice of it in the **Federal Register.**

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This action does not impose any new burdens on small entities, and therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6979(b).

Dated: August 18, 1988.

Greer C. Tidwell,

Regional Administrator.

[FR Doc. 88-21015 Filed 9-14-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 798 and 799

[OPTS-42099; FRL-3446-1]

Methyl Ethyl Ketoxime; Proposed Test Rule and Proposed Pharmacokinetics Test Guideline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing that manufacturers and processors of methyl ethyl ketoxime (MEKO, CAS No. 96-29-7) be required, under section 4 of the Toxic Substances Control Act (TSCA), to perform testing for oncogenicity, mutagenicity, developmental toxicity, reproductive effects, neurotoxicity and pharmacokinetics. This rule is proposed in response to the Interagency Testing Committee's (ITC's) recommendation to consider MEKO for health effects testing. In addition, in this rule, EPA is proposing to add a new test guideline for pharmacokinetics testing. This general guideline may be used in developing chemical-specific TSCA section 4 rules under 40 CFR Part 799 and would be the test standard for MEKO.

DATES: Submit written comments on or before November 14, 1988. If persons request an opportunity to submit oral comments by October 31, 1988, EPA will hold a public meeting on this rule in Washington, DC.

For further information on arranging to speak at the meeting see Unit VII. of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS 42099), in triplicate to: TSCA Public Docket Office (TS-793), Rm. NE-GO04, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, 401 M St., SW., Rm. EB-44, Washington, DC 20460, (202 554-1404), TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: EPA is issuing a proposed test rule for MEKO under section 4(a) of TSCA in response to the ITC's recommendation that MEKO be considered for health effects testing. The Agency is proposing testing for MEKO under section 4(a)(1)(A) and (B) of TSCA.

Public reporting burden for this collection of information is estimated to average 535 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Introduction

A. ITC Recommendation

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*) established the ITC under section 4(e) to recommend to EPA a list of chemical substances and mixtures (chemicals) to be considered for testing under TSCA section 4(a).

The ITC added MEKO to the ITC's list of chemicals for priority consideration by EPA in the promulgation of test rules under section 4(a) of TSCA. The ITC recommended MEKO be considered for health effects testing in its 19th Report, published in the **Federal Register** of November 14, 1986 (51 FR 41417), especially for its effects on the hematopoietic system and for its oncogenic potential. The ITC did not designate a time period for EPA's response on MEKO.

The ITC's rationale for health effects testing was based on concern for widespread use of MEKO and the potential for human exposure; the lack of a no-effect level for blood effects demonstrated in animal studies of MEKO; and the absence of data on MEKO's oncogenic potential.

B. General Pharmacokinetics Test Guideline

In the **Federal Register** of September 27, 1985 (50 FR 39252), EPA issued 40 CFR Parts 796, 797 and 798, which codified TSCA test guidelines that were previously prepared by EPA. At that time, EPA stated that new guidelines would be added as the state of the art of testing evolves and as the need for new guidelines arises. This document proposes a new test guideline for pharmacokinetics that may be used to establish test standards in future TSCA Section 4 test rules in 40 CFR Part 799. The test guidelines are state of the art methods for generating test data and, when cited in chemical specific rules, would assist EPA in reaching decisions regarding the risk of a particular chemical. This pharmacokinetics test guideline has been extensively reviewed by both internal and external experts.

Codification of this guideline, however, would not impose any regulatory obligation on any person who may be subject to a TSCA Section 4 test rule because the guidelines do not become mandatory test standards until they are promulgated as such in an individual test rule for a specific chemical substance or mixture. EPA may modify the pharmacokinetics test guideline as it appears to a proposed rule for a specific test substance. Each specific rule employing the test guideline would be subject to public comment.

EPA is also proposing that this test guideline would serve as the test standard for the MEKO pharmacokinetics testing.

C. Opportunity for Negotiating a Consent Order

EPA raised the possibility of conducting testing on MEKO through an enforceable consent agreement. Industry representatives present at the public

meeting for MEKO on December 17, 1986, indicated that a consent agreement would not be practicable because agreement between importers and the sole United States manufacturer was not likely (Ref. 24). Industry reaffirmed that a consent order would not be feasible at the public meeting to announce EPA's course-setting decision held December 15, 1987 (Ref. 25).

D. Test Rule Development Under TSCA

Under section 4(a) of TSCA, EPA must require testing of a chemical to develop health or environmental data if the Administrator makes certain findings as described in TSCA under section 4(a)(1)(A) or (B). Detailed discussions of the statutory section 4 findings are provided in EPA's first and second proposed test rules which were published in the **Federal Register** of July 18, 1980 (45 FR 48510) and June 5, 1981 (46 FR 30300).

In evaluating the ITC's testing recommendations for MEKO, EPA considered all available relevant information including the following: information presented in the ITC's report and public comments on the ITC's recommendations; production volume, use, exposure, and release information reported by manufacturers and importers of MEKO under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716) concerning MEKO; and published and unpublished data available to the Agency. From its evaluation, as described in this proposed rule, EPA is proposing health effects testing for MEKO under TSCA section 4(a)(1)(A) and (B), and, as such, EPA is responding to the ITC's recommendation of MEKO for testing consideration.

II. Review of Available Data

A. Profile

MEKO, also known as 2-butanone oxime, (CAS Registry Number 96-29-7), is a clear, colorless to light yellow liquid at room temperature, with a barely discernible ethereal aroma. The molecular weight of MEKO is 87.12 daltons. The solubility of MEKO in water is 100 g/L. MEKO has a vapor pressure of 1.06 mm Hg 20°C. The flash point is 69°C and the boiling point is 152°C. Given these properties, MEKO is expected to volatilize; and, therefore, workers may be exposed through inhalation during manufacturing, processing, and use.

B. Production

MEKO is produced by reacting methyl ethyl ketone with hydroxylamine. It is produced in the United States by Allied-Signal, Inc. (Allied), Hopewell, VA. Current total production volume information on MEKO is claimed confidential business information (CBI). However, in its 19th report the ITC reported that 2.2 million pounds of MEKO were imported into the United States in 1985 and 2.0 to 2.9 million points were produced in the United States in 1983. From this information and information on the volume of MEKO which is claimed CBI, EPA believes that the combined annual production and import volume of MEKO in the United States exceeds 5 million pounds. At the present time, there are five importers of MEKO: (1) Aceto Corp., Flushing, NY; (2) Interstab Chemical, New Brunswick, NJ; (3) Mooney Chemicals, Inc., Cleveland, OH; (4) Nuodex, Inc., Elizabeth, NJ; and (5) Troy Chemical Corp., Newark, NJ (Ref. 2).

C. Uses

MEKO is sold primarily as a nonreactive antiskinning agent in alkyd surface coatings and paints. The concentration of MEKO in paints and coatings ranges from 0.1 percent to 0.8 percent. MEKO is also used as a blocking agent for isocyanates and siloxames. MEKO may also be used in other industrial products. The National Occupational Hazard Survey Tradename Ingredient Database (Ref. 11) lists 26 industrial products that contain MEKO. The majority of these products are paints, but MEKO is also found in exterior caulk, paste fillers, pentane gel, and antiskinning products.

In addition to being found in industrial products, MEKO may also be added to consumer products. The Consumer Product Safety Commission's Chemicals in Products Database listed 764 products which contained MEKO at concentrations ranging from 0.1 to 0.8 percent. Most of the products from this list were surface coatings or paints but also included were 12 bathroom bowl cleaners, a glass cleaner, a liquid rug shampoo, an aluminum cleaner, a developer, an adhesive, a household cleaner, and a caulking and repair product (Ref. 10). In addition to the above uses, EPA has been informed of another use which has been claimed CBI.

D. Human Exposure

1. *Occupational.* During its manufacture, 100 workers are potentially exposed to MEKO via inhalation or dermal contact. Fifteen of the 100 may be exposed to MEKO on a daily basis up to 300 days per year (Ref. 13). Using monitoring data for 8-hour time weighted average exposure levels submitted by Allied, EPA estimates workers may be exposed to up to 43 mg of MEKO per day. Using models for filling operations, EPA estimates inhalation exposures may reach 90 to 100 ppm for 2-hour periods for drumming and tank truck loading and up to 2 ppm for sampling and quality control. Furthermore, there may be dermal exposure. EPA estimates that, during drumming, tank car loading, filter changes, and maintenance and cleanup, dermal exposure may range from 1,300 to 3,900 mg/day. During sampling and quality control (QC) analysis, dermal exposure may range from 650 to 1,950 mg/day (Ref. 13).

The National Occupational Hazard Survey (NOHS; Refs. 11 and 13) reports that 12,100 workers in 1,540 plants were potentially exposed to MEKO in the workplace. Half of these workers were mixing and batching operators. Preliminary data from the National Occupational Exposure Survey (NOES; Refs. 12 and 13) indicate that 2,145 workers in 19 plants were potentially exposed to MEKO in 1980.

During the processing of MEKO, inhalation and dermal exposure may occur when mixers or reactors are charged or unloaded. Exposure levels for these operations may range from 1 to 2 mg/day for inhalation exposure to 3,900 mg/day for dermal exposure (Ref. 13). Exposure to MEKO from drumming or tank car filling with final products is estimated to be less than 1 mg/day for inhalation exposure and 13 to 39 mg/day for dermal exposure (Ref. 13).

An estimated 900,000 or more commercial painters in the United States may be routinely exposed to MEKO (Ref. 16). During use, EPA estimates that commercial painters may be exposed to as much as 432 mg/day (328 mg via inhalation and 104 mg via dermal routes; Ref. 3).

2. *Consumer.* Consumers are exposed to MEKO from the use of paints and other products containing MEKO. A National Household Survey of Interior Paints (Ref. 4), indicates that one in five households in the United States had a member who conducted some painting during the year. Of these, 16.8 percent use oil-based paints. The maximum use of oil-based paints by consumers was found to be 12 gallons per year, and maximum painting time was 72 hours per year. Painting consisted of covering walls and ceilings as well as trim and other woodwork. Based on this survey and model estimates of exposure levels,

over 2 million consumers may potentially be exposed to up to approximately 432 mg/day of MEKO for up to 3 days per year (Refs. 3 and 4).

E. Health Effects

1. Pharmacokinetics. The only data on the absorption and distribution of MEKO are provided by a summary of an autoradiography study submitted by Allied (Ref. 5). Pregnant mice were administered as single oral dose of ^{14}C-labeled MEKO on day 14 of gestation. In addition, one male mouse was administered a single oral dose of MEKO. The distribution of the ^{14}C label was noted over a 24-hour period. Based on this limited data, it appears that MEKO is rapidly absorbed via the oral route, and distributed intact throughout the body. The study showed that the ^{14}C label was found to occur at higher levels in the liver of the developing fetus than in the mother, and complete clearance of the ^{14}C label occurred in approximately 16 hours. There is insufficient information to determine the relative rates of absorption, distribution, metabolism, and excretion of MEKO. Allied speculated that MEKO would metabolize to methyl ethyl ketone (MEK) and hydroxylamine but supplied no information to support this contention (Ref. 30).

2. Acute toxicity. The ITC report classified MEKO as a mildly toxic agent, citing the results of acute oral, dermal, and inhalation exposure studies by Allied (Ref. 30). EPA has received additional information submitted by various companies under section 8(d) of TSCA confirming these results (Refs. 31 through 37). In a summary of acute oral studies on rats and mice, Allied reported the LD50s to be 1,000 mg/kg in mice and to range from 930 to 3,700 mg/kg in the rat (Refs. 27 and 30). Other companies reported LD50's of 1,600 to 2,760 mg/kg in rats (Refs. 32, 35, and 36). In a dermal toxicity study reported by Allied, the LD100 in rabbits was found to be 2.0 mL/kg (1,860 mg/kg) (Ref. 30). Central nervous system depression was observed prior to death. In addition, Allied reported methemoglobin formation at 0.2 mL/kg, but there were no observed effects on the blood at 0.02 mL/kg (19 mg/kg) administered daily for 5 weeks (Refs. 14 and 30).

Rats exposed to airborne concentrations of 190, 1,450, and 4,830 mg/m^3 (53, 407, and 1,355 ppm) for 4 hours showed anesthesia in the high does group and methemoglobinemia in the mid and high dose groups (Refs. 14 and 30). No deaths occurred. In another short terms test, rats were exposed for 24 hours per day for 5 days to a saturated vapor of MEKO (calculated to be 8,000 mg/m^3; Refs. 14 and 30). Death occurred in 4 to 5 days.

Allied reported MEKO to be a skin irritant and sensitizer (Ref. 30). MEKO was found to produce equivocal results on sensitization in the Buehler test and positive sensitization results when tested in the Morganson-Kligman maximization test in guinea pigs (Ref. 30). From a moust ear swelling test, Gad et al. reported the MEKO caused 40 percent of the animals to be sensitized (Ref. 38). While Allied reported only slight skin irritation from the application of MEKO to rabbits, Kodak reported scarring of skin and severe erythema from dermal application to rats (Ref. 34). Most reports indicated that MEKO is a severe eye irritant.

3. Subchronic toxicity. The longest duration study conducted to date with MEKO is a 13-week oral toxicity study conducted in 1977 by Hazleton Laboratories for Allied (Ref. 30). Rats received MEKO by gavage at does of 25, 75, or 225 mg/kg, 5 days per week. Treated groups from both sexes showed dose related decreases in erythrocyte count, and hematocrit and hemoglobin values and displayed a moderate to marked reticulocytosis. Heinz bodies, occasional siderocytes, polychromasia, basophilic stippling, and Howell-Jolly bodies were generally present in the mid and high dose groups. Blood chemistries revealed an elevation of total bilirubin and erythrocyte cholinesterase in mid dose males and high dose males and females. Alkaline phosphatase levels of high dose males also increased. A slight depression in blood urea nitrogen and plasma cholinesterase levels were noted in the high dose level female group. There was also an increase in the absolute and/or relative weights of the spleen, liver, and kidney in all dose groups. The spleen and liver were dark and histologic examination of these organs revealed hematopoiesis (extramedullary) and macrophages with greenish-brown pigment. Pigment of similar appearance was also detected in the epithelial cells lining the proximal convoluted tubules of the kidney.

These data suggest that MEKO induces a hemolytic anemia in the rat with compensatory erythropoiesis. This study did not define a no-observed-adverse-effect level (NOAEL), but predicted the NOAEL to be less than 25 mg/kg/day. In addition to the effects on the hematopoietic system, data from the 13-week study show that the number of animals with decreased spermatogenesis or aspermatogenesis was markedly increased in the high dose group (225 mg/kg).

Many effects similar to those found in the Allied study were observed by Jurita (1967) in a 4-week study in which MEKO was administered by subcutaneous injuction (Refs. 14 and 30).

4. Developmental effects and reproductive toxicity. The reported results of the 13-week study discussed in Unit II.E.3. suggest the MEKO may adversely affect spermatogenesis and, thus, reproduction. Since MEKO may metabolize to hydroxylamine and methyl ethyl ketone (MEK; Ref. 30), the results of tests on these possible metabolites suggest that MEKO may also cause developmental and reproductive toxicity. In a study by Chaube and Murphy, an increase in resorptions occurred in pregnant rats given a single intraperitoneal injection of hydroxylamine hydrochloride and a dose of 47 mg/kg (Refs. 39 and 47). In addition, Zimmermann and Gottschewiski reported teratogenic effects from the injection of 10 mg/kg of hydroxylamine into pregnant rabbits (Refs. 40 and 47); De Sesso found malformations in the offspring of rabbits exposed to hydroxylamine through interacoelomic injections (Refs. 41 and 47); and Stoll et al. demonstrated developmental effects from injection of hydroxylamine directly into chicken embryos (Refs. 42 and 43). Furthermore, in a study by Ramaiya, exposure to hydroxylamine appears to produce a decrease in fertility in male mice by adversely affecting specific stages of spermatogenesis (Refs. 44, 45, and 46). It also results in maldevelopment of the mannary glands, alterations in circulating prolacting levels, alterations in length of estrus cycle, and failure of Graafian follicles to develop into corpora lutea after ovulation (Refs. 44, 45, and 46).

MEK, another possible metabolite of MEKO (Ref. 28), caused fetal abnormalities in rats at 1,000 ppm and soft tissue abnormalities in rats at 3,000 ppm (Refs. 15 and 52). These data are insufficient to fully characterize MEKO's developmental and reproductive effects, but suggest that MEKO may cause such effects. Developmental toxicity and reproductive effects studies have not been conducted on MEKO itself. EPA believes that the above data on hydroxylamine and MEK and the subchronic toxicity data on MEKO, provide suggestive evidence that MEKO may cause reproductive effects and developmental toxicity.

5. Mutagenicity. Concern for the potential mutagenicity of MEKO is based on mutagenicity data on MEK and hydroxylamine. The National Cancer Institute (NCI) reported that MEKO was

mutagenic in the mouse lymphoma gene mutation assay (Ref. 48). MEKO was nonmutagenic in *Salmonella* strain TA98, TA100, TA1535, TA1537, and TA198 (Refs. 30 and 53). These data are insufficient to fully characterize MEKO's mutagenicity potential, but suggest that MEKO may be mutagenic.

EPA, in a review of the mutagenicity data on hydroxylamine and hydroxylamine hydrochloride, found the chemicals to be gene mutagens, clastogens, inducers of sister chromatid exchange and DNA effects, and/or inducers of cell transformation. Effects were observed in plant cells, prokaryotes, lower and higher eukaryotes, and mammals and mammalian cells, including mammalian germ cells (Refs. 46 and 47). Because hydroxylamine and hydroxylamine hydrochloride are mutagenic, MEKO may also be mutagenic.

6. Oncogenicity. Concern for the potential oncogenicity of MEKO is based on data on acetoxime (Refs. 6, 9, 28, and 29), a close structural analogue of MEKO, and on the positive mouse lymphoma gene mutation assay using MEKO (Ref. 48).

Acetoxime was tested in an 18-month carcinogenicity study conducted by Miryish et al. (Ref. 28) using MRC-Wistar rats. The oncogenic effects noted in this study raise significant concern about the potential carcinogenicity of MEKO, a close structural analogue of acetoxime, which differs from MEKO by the addition of a single methyl group. While EPA is acutely aware of deficiencies on the data that would prevent its use in quantitative risk assessment, the study is nevertheless sufficient to raise concern for the possible oncogenicity of MEKO by analogy to acetoxime (Refs. 6, 9, and 28).

Acetoxime administered in the drinking water to rats induced a statistically significant increase in the incidence of hepatocellular adenomas in 80 percent of male rates (Ref. 28). The incidence of liver tumors in females was not significant. No liver tumors were noted in the untreated controls; these results are similar to those for previous untreated groups (historical control; Ref. 28).

Following the publication of the Mirvish study, EPA was informed by the author that a second pathologist reviewed the original histopathologicalslides. Secondary analysis confirmed the diagnosis of hepatocellular adenomas in 11 of 12 animals.

Hepatocellular carcinomas were also noted in 6 of the 11 animals that had adenomas (Refs. 6 and 29).

The positive mouse lymphoma gene mutation assay on MEKO provides further suggestive evidence that MEKO may be oncogenic because the correlation from the mouse lymphoma gene mutation assay in the L5178Y system to oncogenicity as determined in phase II of the EPA Gene-Tox Program is 81.5 percent (Ref. 54). EPA believes there is sufficient evidence to indicate that the Chinese hamster V79 system, mouse lymphoma gene mutation L5178Y system, and the Chinese hamster ovary system assays may be used to trigger an in vivo assay for oncogenicity (50 FR 20672; May 17, 1985).

7. Neurotoxicity. No studies were found in the literature or submitted by industry on the neurological or neurobehavioral toxicity of MEKO.

III. Findings

EPA is basing its proposed pharmacokinetics, oncogenicity, mutagenicity, developmental toxicity, reproductive toxicity, and neurotoxicity testing for MEKO on the authority of section 4(a)(1) (A) and (B) of TSCA.

Under section section 4(a)(1)(B)(i) EPA finds the MEKO is produced in substantial quantities and that there may be substantial human exposure during manufacturing, processing, and use of MEKO.

The total annual production of MEKO in CBI; however, according to publicly available information, total imports and domestic annual production are in excess of 5 million pounds per year (Ref. 2). An estimated 2 million consumers may be exposed to MEKO through use of oil-based paints and additionally may be exposed to MEKO through use of household cleaning products and adhesive, caulking, and repair products (Refs. 3, 4, and 10). An estimated 900,000 professional painters may be routinely exposed to MEKO through use of oil-based paints (Ref. 16). An estimated 12,000 workers in 1,500 plants may be exposed through manufacture and processing of MEKO (Refs. 11 and 30).

Under section 4(a)(1)(A)(i), EPA finds that the manufacture, processing, and use of MEKO may present and unreasonable risk of injury to human health due to its potential to cause oncogenic, mutagenic, reproductive, developmental, and blood effects for the reasons presented in Unit II.E. and in the support document (Ref. 1) which is available in the rulemaking record. Exposure to MEKO is described above. The finding for potential oncogenic risk is based upon date which indicates that acetoxime, a close structural analogue of MEKO, caused benign and malignant hepatocellular tumors in mice (Refs. 6, 9, 28, and 29). In addition, MEKO is positive in the mouse lymphoma gene mutation assay (Ref. 48). Data in these reports suggest that MEKO may be oncogenic.

The finding for potential mutagenic risk is based on open data indicating that MEKO caused gene mutations in a mouse lymphoma gene mutation test (Ref. 48). In addition, hydroxylamine, a possible metabolite of MEKO, is mutagenic in various systems (Refs. 46 and 47). Data in these reports support a concern for potential mutagenic risk from MEKO.

The finding for potential reproductive risk is based on adverse effects on testes of rats from a 90-day exposure to MEKO (Ref. 30). In addition, hydroxylamine, a possible metabolite of MEKO, appears to adversely affect spermatogenesis, mammary gland development, prolactin levels, estrus cycle, and development of graafian follicles (Refs. 6, 15, 43, 45, and 46). These results suggest potential reproductive risk from MEKO.

The finding for potential developmental risk is based on data from tests on methyl ethyl ketone (MEK), a possible metabolite of MEKO, which indicate that MEK causes fetal skeletal abnormalities in rats at 1,000 ppm and soft tissue abnormalities in rats at 3,000 ppm (Ref. 15). In addition, data on hydroxylamine (Refs. 40, 41, 42, 43, and 47), another possible metabolite of MEKO, suggest that hydroxylamine is developmentally toxic, raising concern that MEKO may also potentially cause developmental effects.

The finding for potential blood effects risk is based on data from a 90-day oral toxicity study of MEKO (Ref. 30) which suggest that MEKO induces a hemolytic anemia in the rat with compensatory erythropoiesis as described in section II.E.3., and supports concern for the risk of blood effects from MEKO.

Although the available data on blood effects are adequate for risk assessment, it may be in the interest of those subject to this rule to further assess blood effects. The 90-day subchronic study (Ref. 30) does not provide a NOAEL for blood effects for MEKO. Uncertainty factors would be added to the LOAEL to establish acceptable levels of exposure. Testing to determine the NOAEL for blood effects associated with subchronic and chronic exposure would reduce the uncertainty in evaluating MEKO.

The NOAEL for blood effects could be established in the subchronic range finding studies for the MEKO oncogenicity test. This data should be developed according to the test guideline at 40 CFR 798.2650 modified to direct specific attention towards the

hematology profile. Hematology determinations (hematocrit, hemoglobin concentrations, erythrocyte count, total and differential leukocyte count, and a measure of clotting potential such as clotting time, prothrombin time, thromboplastin time, or platelet count) and certain clinical biochemistry determinations on blood could be made on all groups including controls at day 30 and at day 90 of the test period for the rat. Since this assures data on the concurrent controls, baseline data prior to the initiation of exposure would not be needed. A chronic NOAEL for blood effects could be obtained by modifying the oncogenicity study to include hematology and blood biochemistry. This could be accomplished by modifying the oncogenicity test guideline at 40 CFR 798.3300 to include hematology determinations and certain clinical biochemistry determinations on blood for rats, as listed in 40 CFR 798.3320, the combined chronic toxicity/oncogenicity test guideline. Alternatively, the test sponsor could conduct the combined chronic toxicity/oncogenicity test at 40 CFR 798.3320. Provisions from 40 CFR 798.3320 would be modified to be consistent with the revisions of 40 CFR 798.3300 (52 FR 19055; May 20, 1987). Satellite groups of rats may be necessary to avoid stress to the test animals from blood sampling and to provide sufficient animals for adequate blood collections.

The findings for the above potential health effects under section 4(a)(1)(A)(i), and the finding that MEKO is produced in substantial quantities and that there may be substantial human exposure under section 4(a)(1)(B)(i), support EPA's concern that the manufacturing, processing, and use of MEKO may present an unreasonable risk of injury to human health.

Under section 4(a)(1) (A)(ii) and (B) (ii), EPA finds that there are insufficient data and experience from which the potential health risks (other than blood effects) from manufacturing, processing, and use of MEKO can reasonably be determined or predicted. In the 90-day subchronic test of MEKO the lowest-observed-adverse-effect level (LOAEL) was determined to be 25 mg/kg. The LOAEL data from the subchronic test is adequate for risk assessment. However, if manufacturers of MEKO desire to reduce the uncertainty factors that would be used in risk assessment, additional testing to determine a NOAEL is recommended but not required.

Under section 4(a)(1) (A)(iii) and (B)(iii), EPA finds that testing of MEKO is necessary to develop such data for oncogenicity, mutagenicity, reproductive toxicity, developmental toxicity, neurotoxicity, and pharmacokinetics. EPA believes that data resulting from this testing will be relevant to a determination as to whether manufacturing, processing and use of MEKO does or does not present an unreasonable risk of injury to human health.

Because of the above concerns for oncogenicity, mutagenicity, blood effects, reproductive effects, and developmental toxicity for the described exposures to MEKO, EPA finds that pharmacokinetics test data are necessary. Ultimately the purpose for generating pharmacokinetics data is to use the information in risk assessement. Such applications offer the only scientific avenue for making extrapolations of toxicologic data from species to species, from route to route of administration, and from high to low does. Furthermore, does selections for the chronic toxicity studies would be imporved by prior knowledge of the extent of absorption by the routes to be used. In addition, these data would be used to detect major differences between sexes relative to the metabolic processes of absorption, tissue distribution, biotans-formation and excretion, whether the metabolic processes are modified by different routes of administration of the test substance, and whether these proceses are modified by repeated dosing.

IV. Proposed Rule

A. Proposed Testing and Test Standards

On the basis of the information presented in Unit II, and the findings set forth in Unit III, EPA is proposing health effects testing for MEKO. The tests would be conducted in accordance with EPA's TSCA Good Laboratory Practice Standards in 40 CFR Part 792 and specific TSCA test guidelines in 40 CFR Parts 795 and 798, or other published test methods as specified in this test rule for MEKO in the following table.

TABLE.—PROPOSED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS FOR MEKO

Test	Test standard (40 CFR citation)	Reporting deadline for final report[1]	Number of interim (6 month) reports required
Pharmacokinetics.	[2]§ 798.7485	15	2
Oncogenicity	§ 798.3300	53	8
Developmental toxicity.	§ 798.4900	15	2
Reproductive toxicity.	§ 798.4700	24	3
Sex-linked recessive lethal assay in *Drosophiala*.	§ 798.5275	18	2
In vivo mammalian cytogenetics assay: Chromosomal analysis or micronucleus assay.	§ 798.5385 or § 798.5395	8	0
Functional observation battery, acute and subchronic.	§ 798.6050	12	1
Motor activity test, acute and subchronic.	§ 798.6200	12	1
Neuropathology, subchronic.	§ 798.6400	12	1

[1] Number of months after effective date of the final rule unless specified otherwise.
[2] Proposed in this notice.

The health effects tests proposed to be conducted for MEKO are: (1) Pharmacokinetics using the guideline proposed in this document as 40 CFR 798.7485 including oral, dermal, inhalation, and intravenous absorptions, repeated dosing, and washing efficiency studies; (2) an oral 2-year oncogenicity study, using the guideline at 40 CFR 798.3300; (3) an oral 2-species developmental toxicity study using the guideline at 40 CFR 798.4900; (4) an oral 2-generation reproductive toxicity study using the guideline at 40 CFR 798.4700 and including histopathology of the testes with staging of the sperm, histopathology of the ovaries, and vaginal cytology for the last 3 weeks prior to mating to monitor the estrus cycle; (5) sex-linked recessive lethal gene mutation assay in *Drosophial* using the guideline at 40 CFR 798.5275; (6) *in vivo* mammalian bone marrow cytogenetics test using the guideline for either the chromosomal analysis at 40 CFR 798.5385 or the micronucleus assay at 40 CFR 798.5395; and (7) acute and subchronic 90-day oral neurotoxicity tests including a functional observation battery using the guideline at 40 CFR 798.6050, a motor activity test using the guideline at 40 CFR 798.6200, and

neuropathology test using the guideline at 40 CFR 798.6400. If the three tests listed under (7) above combined, at least 10 animals per sex per dose level would be used.

The test guideline would be modified in the 2-generation reproductive toxicity test. The integrity of the various cell stages of spermatogenesis would be determined with particular attention directed toward achieving optimal quality in fixation and embedding. Preparations of testicular and associated reproductive organ samples for histology would follow the recommendations of Lamb and Chapin (Ref. 17), or an equivalent procedure, and histopathology of the testes would be done on P_0 and F_1 adult males at the time of sacrifice. Histological analyses would include evaluations of the spermatogenic cycle, i.e., the presence and integrity of the 14 cell stages. These evaluations would follow the guidance provided by Clermont and Perey (Ref. 18). Information should also be provided regarding the nature and level of lesions observed in control animals for comparative purposes. Data on female cyclicity in P_0 and F_1 females over the last 3 weeks prior to mating. The method of Sadleir (Ref. 19), or an equivalent method, would be used. Additional guidance may be obtained from Hafez (Ref. 23). Data would be provided on whether the animal is cycling and the cycle length. P_0 and F_1 females would continue to be exposed to MEKO in order to permit them to begin cycling once again. The ovary would be serially sectioned with a sufficient number of sections examined to adequately detail oocyte and follicular morphology. The methods of Mattison and Thorgiersson (Ref. 20) and Pederson and Peters (Ref. 21) may provide guidance. The strategy for sectioning and evaluation would be left to the discretion of the investigator, but would be described in detail in the protocol and final report. The nature and background level of lesions in the control tissue would also be noted. Gross and histologic evaluation of mammary glands would be conducted on female F_1 and F_2 pups sacrificed at weaning and in adult F_1 females at the termination of the study.

An *in vitro* mammalian cytogenetics assay, a gene mutation assay in *Salmonella*, and a sister chromatid exchange test on MEKO are being conducted by the National Toxicology Program. EPA will evaluate the data from these tests, the sex-linked recessive lethal assay in *Drosophila*, the *in vivo* mammalian cytogenetics assay, and other information developed on MEKO to determine if the mouse visible specific locus assay, the rodent dominant lethal assay, the rodent heritable translocation assay, or other mutagenic testing is necessary for MEKO. These upper tier mutagenic tests are not being proposed at this time. EPA will evaluate the need for these tests upon receipt of the lower tier test results.

EPA is proposing that the TSCA Health Effects Test Guidelines referenced in the above table and as modified in the proposed test standards be used for the purposes of the required tests for MEKO. The TSCA test guidelines for health effects testing specify generally accepted minimum conditions for determining the health effects for substances such as MEKO to which humans are expected to be exposed.

B. Test Substance

EPA is proposing that MEKO of at least 99 percent purity be used as the test substance; MEKO of this purity is commercially available. EPA has specified a relatively pure substance for testing because it is interested in evaluating the effects attributable to MEKO itself.

C. Persons Required to Test

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

Because EPA has found that there are insufficient data and experience to reasonably determine or predict the effects of the manufacture, processing, and use of MEKO on human health, EPA is proposing that all persons who manufacture including import or process or intend to manufacture or process MEKO, including persons who manufacture or process or intend to manufacture or process MEKO as a byproduct, or who import or intend to import products which contain MEKO, at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements contained in this proposed rule. Persons who manufacture, import, or process MEKO only as an impurity are not subject to these requirements. The end of the reimbursement period will be at least 5 years after the last final report is submited; but, if it takes longer than 5 years to submit the last final report, the reimbursement period will be extended an amount of time equal to that which was required to submit the last final report.

Because TSCA containes provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

Manufacturers (including importers) subject to this rule would be required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the final test rule. The required procedures for submitting such letters and applications are described in 40 CFR Part 790.

Processors subject to this rule, unless they are also manufacturers, would not be required to submit letters of intent or exemption applications, or to conduct testing, unless manufacturers fail to submit notices of intent to test or later fail to sponsor the required tests. The agency expects that the manufacturers will pass an appropriate portion of the costs of testing on to processors through the pricing of their products or other reimbursement mechanisms. If manufacturers perform all the required tests, processors will be granted exemptions automatically. If manufacturers fail to submit notices of intent to test or fail to sponsor all the required tests, the Agency will publish a separate notice in the **Federal Register** to notify processors to respond; this procedure is described in 40 CFR Part 790.

Persons conducting tests would submit plans and conduct tests in accordance with TSCA Good Laboratory Practice Standards (40 CFR Part 792).

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for MEKO. As noted in Unit IV.B., EPA is interested in evaluating the effects attributable to MEKO itself and has specified a relatively pure substance for testing.

Manufacturers and processors subject to this test rule would comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

All data developed under this rule would be reported in accordance with its TSCA Good Laboratory Practice (GLP) Standards which appear at 40 CFR Part 792. In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors would be required to submit individual study plans at least 45 days prior to the initiation of each test.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency's proposed reporting requirements for each of the proposed test standards are specified in the Table in Unit IV.A. Progress reports for all tests would be required at 6-month intervals starting 6 months from the effective date of the final test rule. No interim report would be required for the in vivo mammalian bone marrow cytogenetics assay.

V. Issues for Comment

This proposed rule specifies TSCA test guidelines as the test standards. The Agency is soliciting comments as to whether the test guidelines are appropriate and applicable for the testing of MEKO. Also regarding the test of MEKO, the Agency requests comments on:

1. Is the testing proposed to characterize the potential health effects of MEKO adequate?

2. Should EPA require establishment of the NOAEL for blood effects? Available data supports concern for blood effects at estimated worker exposure levels. Further testing would confirm and refine the hazard assessment.

3. Are there other testing approaches that should be considered?

VI. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of this proposed rule, EPA has prepared an economic analysis that evaluates the potential for significant economic impacts on the industry as a result of the proposed testing. The economic analysis estimates the costs of conducting the proposed testing and evaluates the potential costs by examining four market characteristics of MEKO: Price sensitivity of demand, industry cost characteristics, industry structure, and market expectations. If these indications are negative, no further economic analysis is performed. However, if the first level of analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted which more precisely predicts the magnitude and distribution of the expected impact.

Total testing costs for the proposed rule for MEKO are estimated to range from $1.4 to $1.9 million. To predict the financial decisionmaking practices of manufacturing firms, these costs have been annualized. Annualized costs are compared with annual revenue as an indication of potential impact. The annualized costs represent equivalent constant costs which would have to be recouped each year of the payback period to finance the testing expenditure in the first year.

The annualized test costs, calculated using a cost of capital of 7 percent over a period of 15 years, range from $150,000 to $205,000. Though the annualized unit costs of the tests relative to the product price of MEKO appear to be high, EPA believes that the potential for adverse economic impact is moderate. This conclusion is based on the following observations: Primarily because of the higher price of viable substitutes, the demand for MEKO appears to be inelastic with respect to price in its largest end use as an antiskinning agent in alkyd paints, and the market for MEKO appears to be stable.

Refer to the economic analysis which is contained in the public record for this rulemaking for a complete discussion of test cost estimation and potential for economic impact resulting from these costs (Ref. 2).

VII. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting subsequent to the close of the public comment period in Washington, DC. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): (202-554-14-4), by October 31, 1988. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the rulemaking record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VIII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "* * * the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (PB 82-140773). A microfiche copy of this study is also included in the docket for this rule and is available to the public for copying. On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing specified in this proposed rule.

EPA has reviewed the availability of contract laboratory facilities to conduct the required neurotoxicity tests (Ref. 51) and believes that facilities will be available for the tests. The laboratory review indicates that few laboratories are currently conducting these tests according to TSCA test guidelines and TSCA GLP standards. However, the barriers faced by testing laboratories to gear up for these tests are not formidable. Laboratories will have to invest in testing equipment and personnel training but EPA believes that these investments will be recovered as the neurotoxicity testing program under TSCA section 4 continues. EPA's expectations of laboratory availability were borne out under the testing requirements of the C9 aromatic hydrocarbon fraction test rule (50 FR 20675; May 17, 1985). Pursuant to that rule, manufacturers were able to contract with a laboratory to conduct the testing according to TSCA test guidelines and TSCA GLP standards.

IX. Rulemaking Record

EPA has established a record for this rulemaking proceeding (docket number OPTS-42099). This record contains the basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices. This record includes:

A. Supporting Documentation

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

(a) Notice containing the ITC's recommendation of MEKO to the Priority List (50 FR 41417; Nov. 14, 1986) and comments on MEKO received in response to that notice.

(b) Rules requiring TSCA section 8(a) and 8(d) reporting on MEKO (51 FR 41328; Nov. 14, 1986).

(c) TSCA test guidelines cited as test standards for this rule, 40 CFR Part 798.

(d) Identification of Specific Chemical Substances and Mixtures Testing Requirements; Ethyltoluenes, Trimethylbenzenes, and the C_9 Aromatic Hydrocarbons Fraction: Final Rule (50 FR 20662; May 17, 1985).

(2) Support document consisting of economic impact evaluation for MEKO.

(3) Communications before proposal consisting of:

(a) Written public comments and letters.

(b) Meeting summaries.

(4) Reports—published and unpublished factual materials including: Chemical Testing Industry: Profile of Toxicological Testing (October 1981).

B. References

(1) U.S. Environmental Protection Agency (USEPA). Technical Support Document for Methyl Ethyl Ketoxime. Syracuse Research Corporation. Contract number 68-02-4209. Office of Pesticides and Toxic Substances, Washington, DC. (December 12, 1986).

(2) USEPA. Economics Impact Analysis of Proposed Test Rule for Methyl Ethyl Ketoxime. Mathtech, Inc. Contract number 68-02-4235. Office of Pesticides and Toxic Substances, Washington, DC (January 22, 1988).

(3) USEPA. Consumer Exposure to Methyl Ethyl Ketoxime from Use of Alkyl Paint. Interagency memorandum from P. Kennedy, Exposure Evaluation Division, to B. Carton, Test Rules Development Branch, Office of Toxic Substances, Washington, DC. (September 30, 1987).

(4) USEPA. National Household Survey of Interior Painters Westat, Inc. Exposure Evaluation Division, Office of Toxic Substances, Washington, DC. (July, 1987).

(5) Allied-Signal, Inc. (Allied). Whole-Body Autoradiographic Study of the Deposition of ^{14}C-Methyl Ethyl Ketoxime in mice. Prepared by Pharmacon Research Foundation, Inc., Morristown, NJ. (June 17, 1981).

(6) USEPA. Validation of Toxicity Studies on MEKO and Policy Paper on Acetoxime. Interagency memorandum for Penelope A. Fenner-Crisp, Health and Environmental Review Division, to Gary Timm, Test Rules Development Branch, Office of Toxic Substances, Washington, DC. (September 24, 1987).

(7) [Reserved]

(8) [Reserved]

(9) USEPA. Basis for Conclusion that Acetoxime and Methyl Ethyl Ketoxime are Possible Human Carcinogens. Interagency memorandum from Don Clay, Director, Office of Toxic Substances, to John A. Moore, Assistant Administrator for Pesticides and Toxic Substances. Washington, DC. (January 29, 1985).

(10) U.S. Consumer Product Safety Commission. CHIP Data Request. Interagency memorandum from E.W. Leland, to M. Wind, Ph.D., through W.R. Hobby, Washington, DC. (October 11, 1985).

(11) National Occupational Hazard Survey Trade Name Ingredient Database. Copy of computer printout for 2-butanone oxime. (May 10, 1985 and July 23, 1985).

(12) National Occupational Exposure Survey. Copy of Computer printout for 2-butane oxime. (May 10, 1985).

(13) USEPA. Methyl ethyl ketoxime-assessment of occupational exposure and environmental release of MEKO. Interagency memorandum from Greg Macek, Economics and Technology Division, to John Walker, Test Rules Development Branch, Office of Toxic Substances, Washington, DC. (July 16, 1986).

(14) Kurita, H. "Experimental studies on methyl ethyl ketoxime toxicity." *Nagoya Journal of Medical Science.* 29:393-418. (1967).

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(17) Lamb, J.C. and Chappin, R.E. "Experimental models of male reproductive toxicology." In: *Endocrine Toxicology.* Thomas, J.A., Korach, K.S., and McLahlan, J.A., eds. New York, NY: Raven Press. pp. 85-115. (1985).

(18) Clermont Y. and Perey, B. "Quantitative study of the cell population of the seminiferous tubules in immature rats." *American Journal of Anatomy.* 100:241-267. (1957).

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(20) Mattison, D.R. and Thorgiersson, S.S. "Ovarian ary; hydrocarbon hydroxylase activity and primordial oocyte toxicity of polycyclic aromatic hydrocarbons in mice." *Cancer Research.* 39:3471-3475. (1979).

(21) Pederson, T. and Peters H. "Proposal for classification of oocytes and follicles in the mouse ovary." *Journal of Reproductive and Fertility.* 17:555-557. (1988).

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(23) Hafez, E.S., (Ed), "Reproduction and Breeding Techniques for Laboratory Animals" Chapter 10. Lea and Febiger (Pub.). Philadelphia, PA. (1970).

(24) USEPA. Transcript of the Focus Meeting, Office of Toxic Substances, Washington, DC. (December 17, 1986).

(25) USEPA. Notes for the Course Setting Meeting, Office of Toxic Substances, Washington, DC. (December 15, 1987).

(26) [Reserved]

(27) Allied. Toxicity of MEKO and Tumorigenicity of acetoxime. Memorandum from W. Reinhart to J.B. Charm. Morristown, NJ. (November 18, 1983).

(28) Mirvish, S. "Carcinogenicity text of acetoxime in MRC-wistar rats." *Journal of National Cancer Institute. Volume 69, number 4., (October 1982).*

(29) Mirvish, S. Comparison of liver pathology of acetone oxime test, as read by two groups of pathologists. Letter from S. Mirvish, The Eppley Institute for Research in Cancer and Allied Diseases, University of Nebraska Medical Center, to J. Brantner, Health and Environmental Review Division, Office of Toxic Substances, USEPA, Washington, DC. (August 7, 1985).

(30) Allied. Methyl Ethyl Ketoxime (MEKO). Letter from J.B. Charm, Corporate Product Safety, Allied Corporation, Morristown, NJ to R. Jones,

USEPA, Washington, DC. (March 5, 1984).

(31) Dow Corning Corporation Toxicity Studies on Methyl Ethyl ketoxime including: Acute vapor inhalation toxicity, eye irritation study, and skin irritation study. Submitted to USEPA under section 8(d) of TSCA. Office of Toxic Substances, Washington, DC. (February 12, 1987).

(32) Mooney Chemicals, Inc. Acute oral toxicity LD50-rats. Submitted to USEPA under section 8(d) of TSCA. Office of Toxic Substances, Washington, DC. (February 17, 1987).

(33) E.I. du Ponte de Nemours and Company. Acute inhalation toxicity of methyl ethyl ketoxime. Submitted to USEPA under section 8(d) of TSCA. Office of Toxic Substances, Washington, DC. (February 14, 1987).

(34) Kodak. Summary report of data on methyl ethyl ketoxime for acute toxicity, skin absorption and irritation, and eye damage. Submitted to USEPA under section 8(d) of TSCA. Office of Toxic Substances, Washington, DC. (February 26, 1987).

(35) Rhone Poulenc, Inc. Rat acute oral and dermal LD50 test results. Submitted to USEPA under section 8(d) of TSCA. Office of Toxic Substances, Washington, DC. (February 19, 1987).

(36) BASF Corporation. Material Safety Data Sheet and test summary report for methyl ethyl ketoxime. Submitted to USEPA under section 8(d) of TSCA. Office of Toxic Substances, Washington, DC. (April 27, 1987).

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(45) USEPA. Review of Strategy on Proposed testing of MEKO. Interagency memorandum from E. Frances, Health and Environmental Review Division. to C.C. Lee, Ph.D., Health and Environmental Review Division, Review Division, Office of Toxic Substances, Washington, DC. (September 16, 1987).

(46) USEPA. Chemical Hazard Information Profile of Hydroxylamine Prepared by Science Applications, Inc. Oak Ridge, TN for the Office of Toxic Substances, Washington, DC. (September 11, 1984).

(47) USEPA. Review of Genotoxicity Section of Chemical Hazard Information Profile on Hydroxylamines. Interagency memorandum from M. Cimino, Health and Environmental Review Division (HERD), to W. Thompson, HERD, Office of Toxic Substances, Washington, DC. (April 7, 1986).

(48) National Cancer Institute (NCI). Mouse Lymphoma Mutageneses Assay with #83890 (ML–NCI #160). Report prepared by Microbiological Associates, Bethesda, MD. under contract No. NO1–CP–41004. (December 11, 1985).

(49) Creasey, D.M., Foster, P.M.D. "The morphological development of glycol ether-induced testicular atrophy in the rat." *Experimental and Molecular Pathology.* 40:169–176. (1984).

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(51) USEPA. Evaluation of TSCA test guidelines for neurotoxicity testing. Mathtech, Inc. Contract number 68–02–4235. Regulatory Impact Branch, Office of Toxic Substances, Washington, DC. (April 4, 1987).

(52) USEPA. Support Document Chapter IV. Health effects of methyl ethyl ketone, JRB Associates, Inc., McLean, VA. Contract No. 68–01–4839. For the Office fo Toxic Substances, Washington, DC. (October 22, 1980).

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Confidential Business Information (CBI), while part of this record, is not available for public review. A public verison of the record, from which CBI has been deleted, is available for inspection in the TSCA Public Docket Office, Rm. G–004, NE Mall, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The agency will supplement this record periodically with additional relevant information received.

X. Other Regulator Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule would not be major because it does not meet any of the criteria set forth in section 1(b) of the Order, i.e., it would not have any annual effect on the economy of at least $100 million, would not cause a major increase in prices, and would not have a significant adverse effect on competition or the ability of U.S. enterprise to compete with foreign enterprises.

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, would not have a significant impact on a substantial number of small businesses because: (1) They are not likely to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs, if any, in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act, 44 U.S.C.

3501 *et seq.* and has assigned OMB control number 2070-0033.

Public reporting burden for this collection of information is estimated to average 535 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Parts 798 and 799

Chemicals, Environmental protection, Hazardous substances, Testing Laboratories, Reporting and recordkeeping requirements.

Dated: August 26, 1988.

Susan F. Voqt,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR, Chapter I, subchapter R, be amended as follows:

1. In Part 798:

PART 798—[AMENDED]

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603.

b. By adding § 798.7485 to read as follows:

§ 798.7485 Pharmacokinetics.

(a) *Purpose.* The purpose of these studies is to:

(1) Ascertain whether the pharmacokinetics and metabolism of a chemical substance or mixture ("test substance") are similar after oral, dermal, and inhalation administration.

(2) Determine bioavailability of a test substance after oral, dermal, and inhalation administration.

(3) Examine the effects of dose level and of repeated dosing on the pharmacokinetics and metabolism of the test substance.

(b) *Definitions.* (1) "Bioavailability" refers to the rate and relative amount of administered test substance which reaches the systemic circulation.

(2) "Metabolism" means the study of the sum of the processes by which a particular substance is handled in the body and includes absorption, tissue distribution, biotransformation, and excretion.

(3) "Percent absorption" means 100 times the ratio between total excretion of radioactivity following oral, dermal, or inhalation administration and total excretion of radioactivity following intravenous administration of the test substance.

(4) "Pharmacokinetics" means the study of the rates of absorption, tissue distribution, biotransformation, and excretion.

(c) *Test procedures*—(1) *Animal selection*—(i) *Species.* The rat shall be used for pharmacokinetics testing because it has been used extensively for metabolic and toxicological studies. For dermal bioavailability studies, the rat and the guinea pig shall be used.

(ii) *Animal strains.* Adult male and female rats (strain used for major toxicity testing) and female guinea pigs shall be used. The rats shall be 7 to 9 weeks of age and their weight range should be comparable from group to group. The female guinea pigs shall be 5 to 7 weeks old and their weight range should be comparable from group to group. The animals should be purchased from a reputable dealer and shall be identified upon arrival. The animals shall be selected at random for the testing groups, and any animal showing signs of ill health shall not be used. In all studies, unless otherwise specified, each test group shall contain at least four animals of each sex for a total of at least eight animals.

(iii) *Animal care.* (A) Animal care and housing should be in accordance with DHEW Publication No. NIH-78-23, 1978, "Guidelines for the Care and Use of Laboratory Animals."

(B) The animals shall be housed in environmentally controlled rooms with at least 10 air changes per hour. The rooms shall be maintained at a temperature of 24±2 degrees centigrade and humidity of 50±10 percent with a 12-hour light/dark cycle per day. The rats shall be kept in a quarantine facility for at least 7 days prior to use, and shall be acclimated to the experimental environment for a minimum of 48 hours prior to treatment.

(C) During the acclimatization period, the animals shall be housed in suitable cages. All animals shall be provided with certified feed and tap water *ad libitum.* The guinea pig diet shall be supplemented with adequate amounts of ascorbic acid in the drinking water.

(2) *Administration of test substance*—(i) *Test substance.* The use of a radioactive test substance is required for all studies. Ideally, the purity of both radioactive and nonradioactive test substances should be greater than 99 percent. The radioactive and nonradioactive substances shall be chromatographed separately and together to establish purity and identity. If the purity is less than 99 percent or if the chromatograms differ significantly, EPA should be consulted.

(ii) *Dosage and treatment*—(A) *Intravenous.* The low dose of each test substance, in an appropriate vehicle, shall be administered intravenously to four rats of each sex.

(B) *Oral.* Two doses of the test substance shall be used in the oral portion of the study, a low dose and a high dose. The high dose should ideally induce some overt toxicity, such as sedation, irritation or weight loss. Both the high and low dose levels should be accomplished by gavage or by administering encapsulated test substance. If feasible, the same high and low doses should be used for oral and dermal studies.

(C) *Inhalation.* Two concentrations of each test substance shall be used in this portion of the study, a low concentration and high concentration. The high concentration should ideally induce some overt toxicity, while the low concentration should correspond to a no-observed-adverse-effect level. Inhalation treatment should be conducted using a "nose-cone" or "head only" apparatus to prevent ingestion of test substance through "grooming."

(D) *Dermal-(1) Dermal treatment.* For dermal treatment, two doses, comparable to the low and high oral doses when feasible, shall be dissolved in a suitable vehicle and applied in volumes adequate to deliver the doses. The backs of the animals should be lightly shaved with an electric clipper 24 hours before treatment. The test substance shall be applied to the intact shaven skin (approximately 2 cm^2 for rats, 5 cm^2 for guinea pigs). The dosed areas shall be protected with a suitable porous covering which is secured in place, and the animals shall be housed separately. When the test substance has signficant volatility, the methodology of Susten et al. (1986), paragraph (e)(1) of this section, or another equivalent method, should be employed.

(*2*) *Washing efficacy study.* Before initiation of the dermal absorption studies, and initial washing efficacy experiment shall be conducted to assess the removal of the applied low dose of test substances by washing the exposed skin area with soap and water and an appropriate organic solvent. The low

dose shall be applied to four rats and four guinea pigs in accordance with paragraph (c)(2)(ii)(D)(*1*) of this section. After application (2 to 5 minutes), the treated areas of two rats and two guinea pigs shall be washed with soap and water and the treated area of the remaining animals shall be washed with an appropriate solvent. The amounts of test substance recovered in the washing shall be determined to assess the efficacy of its removal by washing.

(iii) *Dosing and sampling schedule*—(A) *Rat studies.* After administration of the test substance, each rat shall be placed in a separate metabolic unit to facilitate collection of excreta. For the dermal and inhalation studies, excreta from the rats shall also be collected during the exposure periods. At the end of each collection period, the metabolic units shall be cleaned to recover any excreta that might adhere to them. All studies, except the repeated dose studies, shall be terminated at 7 days, or after at least 90 percent of the radioactivity has been recovered in the excreta, whichever occurs first.

(*1*) *Intravenous study.* Group A shall be dosed once intravenously at the low dose of test substance.

(*2*) *Oral Studies.* (*i*) Group B shall be dosed once *per os* with the low dose of test substance.

(*ii*) Group C shall be dosed once *per os* with the high dose of test substance.

(*3*) *Inhalation studies.* A single 6-hour exposure period shall be used for each group.

(*i*) Group D shall be exposed to a mixture of test substance in air at the low concentration.

(*ii*) Group E shall be exposed to a mixture of test substance in air at the high concentration.

(*4*) *Dermal studies.* Unless precluded by corrosivity, the test substance shall be applied and kept on the skin for a minimum of 6 hours. At the time of removal of the covering, the treated area shall be washed with an appropriate solvent to remove any test substance that may be on the skin surface. Both the covering and the washing shall be assayed to recover residual radioactivity. At the termination of the studies, each animal shall be sacrificed and the exposed skin area removed. An appropriate section of the skin shall be solubilized and assayed for radioactivity to ascertain if the skin acts as a reservoir for the test substance. Studies on the dermal absorption of corrosive test substances should be discussed with EPA prior to initiation.

(*i*) Group F shall be dosed once dermally with the low dose of test substance.

(*ii*) Group G shall be dosed once dermally with the high dose of the test substance.

(*5*) *Repeated dosing study.* Group H shall receive a series of single daily low doses of nonradioactive test substance for at least 7 consecutive days by the oral, dermal, or inhalation route. Twenty-four hours after the last nonradioactive dose, a single oral, dermal, or inhalation low dose of radioactive test substance shall be administered. Following dosing with the radioactive substance, the rats shall be placed in individual metabolic units as described in paragraph (c)(2)(iii)(A) of this section. The study shall be terminated 7 days after the last dose, or after at least 90 percent of the radioactivity has been recovered in the excreta, whichever occurs first.

(B) *Guinea pig studies*—(*1*) *Intravenous study.* The study conducted for group A as specified in paragraph (c)(2)(iii)(A)(*1*) of this section should be repeated using a group of four guinea pigs (Group I).

(*2*) *Dermal studies.* The studies conducted on groups F and G as specified in paragraph (c)(2)(iii)(A)(*4*) of this section shall be repeated using four guinea pigs per group.

(*i*) Group J shall be dosed once dermally with the low dose of the test substance.

(*ii*) Group K shall be dosed once dermally with the high dose of the test substance.

(*iii*) After administration of the test substance, each guinea pig shall be kept in a separate metabolic unit to facilitate collection of excreta. At the end of each collection period, the metabolic units shall be cleaned to recover any excreta that might adhere to them. All studies shall be terminated at 7 days, or after 90 percent of the radioactivity has been recovered in the excreta, whichever occurs first.

(3) *Types of Studies*—(i) *Pharmacokinetics studies*—(A) *Rat studies.* Group A through G shall be used to determine the kinetics of absorption of the test substance. In the group administered the test substance intravenously (i.e., Group A), the concentration of radioactivity in blood and excreta shall be measured following administration. In groups administered the test substance by the oral, inhalation, and dermal routes (i.e., Groups B, C, D, E, F, and G) the concentration of radioactivity in blood and excreta shall be measured at selected time intervals during and following the exposure period. In addition, in the group administered the test substance by inhalation (i.e., Groups D and E), the concentration of test substance in inspired air shall be measured at selected time intervals during the exposure period.

(B) *Guinea pig studies.* Groups J and K shall be used to determine the extent of dermal absorption of the test substance. The amount of radioactivity in excreta shall be determined at selected time intervals.

(ii) *Metabolism studies*—(A) *Rat studies.* Groups A through G shall be used to determine the metabolism of the test substance. Excreta (urine, feces, and expired air shall be collected for identification and quantification of the test substance and metabolites.

(B) [Reserved]

(4) *Measurements*—(i) *Pharmacokinetics.* Four animals from each group shall be used for these purposes.

(A) *Rat studies*—(*1*) *Bioavailability.* The levels of radioactivity shall be determined in whole blood, blood plasma, or blood serum at appropriate intervals (e.g., 15 minutes, 30 minutes, 1 hour, 2 hours, 8 hours, 24 hours, 48 hours, and 96 hours) after initiation of intravenous, oral, and dermal dosing, and at the same intervals after cessation of dosing by inhalation.

(*2*) *Extent of absorption.* The total quantities of radioactivity shall be determined for excreta collected daily for 7 days, or after at least 90 percent of the radioactivity has been recovered in the excreta.

(*3*) *Excretion.* The quantities of radioactivity eliminated in the urine, feces, and expired air shall be determined separately at appropriate time intervals. The collection of carbon dioxide may be discontinued when less than 1 percent of the dose is found to be exhaled as radioactive carbon dioxide in 24 hours.

(*4*) *Tissue distribution.* At the termination of each study, the quantities of radioactivity in blood and in various tissues, including bone, brain, fat, gastrointestinal tract, gonads, heart, kidney, liver, lungs, muscle, skin, and spleen, and in the residual carcass of each animal shall be determined.

(*5*) *Change in pharmacokinetics.* Results of pharmacokinetics measurements (i.e., bioavailability, extent of absorption, excretion, and tissue distribution) obtained in rats receiving the single low inhalation dose of the test substance (Group D) shall be compared to the corresponding results obtained in rats receiving repeated oral doses of the test substance (Group H).

(B) *Guinea pig studies*—(*1*) *Extent of absorption.* The total quantities of radioactivity shall be determined for excreta daily for 7 days or until 90

percent of the test substance has been excreted.

(2) [Reserved]

(ii) *Metabolism.* Four animals from each group shall be used for these purposes.

(A) *Rat studies*—(1) *Biotransformation.* Appropriate qualitative and quantitative methods shall be used to assay urine, feces, and expired air collected from rats. Efforts shall be made to identify any metabolite which comprises 5 percent or more of the dose eliminated and the major radioactive components of blood.

(2) *Changes in biotransformation.* Appropriate qualitative and quantitative assay methodology shall be used to compare the composition of radioactive compounds in excreta from rats receiving a single inhalation dose (Group D and E) with those in the excreta from rats receiving repeated inhalation doses (Group H).

(B) [Reserved]

(d) *Data and Reporting.* The final test report shall incude the following:

(1) *Presentation of results.* Numerical data shall be summarized in tabular form. Pharmacokinetics data shall also be presented in graphical form. Qualitative observations shall also be reported.

(2) *Evaluation of results.* All qualitative results shall be evaluated by an appropriate statistical method.

(3) *Reporting results.* In addition to the reporting requirements as specified in Part 792 of this chapter, the following specific information shall be reported:

(i) Species and strains of laboratory animals.

(ii) Chemical characterization of the test substances, including:

(A) For the radioactive test substances, information on the sites and degree of radiolabeling, including type of label, specific activity, chemical purity, and radiochemical purity.

(B) for the nonradioactive test substances, information on chemical purity.

(C) Results of chromatography.

(iii) A full description of the sensitivity, precision, and accuracy of all procedures used to generate the data.

(iv) Precent absorption of the test substance after inhalation and dermal exposures to rats and dermal exposure to guinea pigs.

(v) Quantity and percent recovery of radioactivity in feces, urine, expired air, and blood. In dermal studies on rats and guinea pigs, include recovery data for skin, skin washings, and residual radioactivity in the covering apparatus as well as results of the washing efficacy study.

(vi) Tissue distribution reported as quantity of radioactivity in blood and in various tissues, including bone, spleen, brain, fat, gastrointestinal tract, gonads, heart, kidney, liver, lung, muscle, skin, and spleen and in the residual carcass of rats sacrificed 24 hours after dosing and at the conclusion of the study.

(vii) Biotransformation pathways and quantities of the test substance and metabolites in excreta collected after administering single high and low doses to rats.

(viii) Biotransformation pathways and quantities of test substance and metabolites in excreta collected after administering repeated low doses to rats.

(ix) Materials balance developed from each study involving the assay of body tissues and excreta.

(x) Pharmacokinetics models developed from the experimental data.

(e) *References.* For additional background information, the following reference may be consulted.

(1) Susten, A.S., Dames, B.L., and Niemeier, R.W. "*In vivo* percutaneous absorption studies of volatile solvents in hairless mice. I. Description of a skin-depot." *Journal of Applied Toxicology.* 6:43–46. (1986).

(2) [Reserved]

2. In Part 799:

PART 799—[AMENDED]

a. The authority citation continues to read as follows:

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

b. By adding § 799.2700 to read as follows:

§ 799.2700 Methyl Ethyl Ketoxime.

(a) *Identification of test substance.* (1) Methyl ethyl ketoxime (MEKO, CAS No. 96–29–7) shall be tested in accordance with this section.

(2) MEKO of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* All persons who manufacture (including import) or process or intend to manufacture or process MEKO, including persons who manufacture or process or intend to manufacture or process MEKO as a byproduct, or who import or intend to import products which contain MEKO, after the date specified in paragraph (e) of this section to the end of the reimbursement period shall submit lettes of intent to conduct testing, submit study plans, conduct tests, and submit data, or submit exemption applications, as specified in this section, Subpart A of this Part, and Parts 790 and 792 of this chapter for single-phase rulemaking. Persons who manufacture, import, or process MEKO only as an impurity are not subject to these requirements.

(c) *Health Effects testing*—(1) *Pharmacokinetics testing*—(i) *Required testing.* Pharmacokinetics testing shall be conducted in accordance with § 798.7485 of this chapter.

(ii) *Reporting requirements.* (A) Pharmacokinetics testing shall be completed and a final report submitted to EPA within 15 months of the date specified in paragraph (e) of this section.

(B) An interim progress report shall be submitted to EPA 6 and 12 months after the date specified in paragraph (e) of this section.

(2) *Oncogenicity*—(i) *Required testing.* Oncogenicity testing shall be conducted orally in accordance with § 798.3300 of this chapter.

(ii) *Reporting requirements.* (A) Oncogenicity testing shall be completed and a final report submitted to EPA within 53 months of the date specified in paragraph (e) of this section.

(B) Interim progress reports shall be submitted to EPA at 6-month intervals, beginning 6 months after the date specified in paragraph (e) of this section, until submission of the final report to EPA.

(3) *Developmental toxicity*—(i) *Required testing.* Developmental toxicity testing shall be conducted orally in a rodent and a nonrodent species in accordance with § 798.4900 of this chapter.

(ii) *Reporting requirements.* (A) Developmental toxicity testing shall be completed and a final report submitted to EPA within 53 months of the date specified in paragraph (e) of this section.

(B) Interim progress reports shall be submitted to EPA 6 and 12 months after the date specified in paragraph (e) of this section.

(4) *Reproductive toxicity*—(i) *Required testing.* (A) Reproductive toxicity testing shall be conducted orally in accordance with § 798.4700 of this chapter except for the provisions in paragraphs (c) (8)(iii) and (9)(i) of § 798.4700.

(B) For the purpose of paragraph (c)(4) of this section, the following provisions apply:

(1) the following organs and tissues, or representative samples thereof, shall be preserved in a suitable medium for possible future histopathological examination: vagina; uterus; oviducts; ovaries; testes; epididymides; vas deferens; seminal vesicles; prostate; pituitary gland; and, target organ(s) of all P_1 and F_1 animals selected for mating.

(*2*)(*i*) full histopathology shall be conducted on the organs and tissues listed in paragraph (c)(4)(i)(B)(*1*) of this section for all high dose and control P_1 and F_1 animals selected for mating.

(*ii*) The integrity of the various cell stages of spermatogenesis shall be determined, with particular attention directed toward achieving optimal quality in the fixation and embedding. Preparations of testicular and associated reproductive organ samples for histology should follow the recommendations of Lamb and Chapin (1985) under paragraph (d)(1) of this section, or an equivalent procedure. Histopathology of the testes shall be conducted on all P_0 and F_1 adult males at the time of sacrifice, and histological analyses shall include evaluations of the spermatogenic cycle, i.e., the presence and integrity of the 14 cell stages. These evaluations should follow the guidance provided by Clermont and Perey (1957) under paragraph (d)(2) of this section. Information shall also be provided regarding the nature and level of lesions observed in control animals for comparative purposes.

(*iii*) data on female cyclicity shall be obtained by conducting vaginal cytology in P_0 and F_1 females over the last 3 weeks prior to mating; the cell staging technique of Sadleir (1978) and the vaginal smear method in Hafez (1978) under paragraphs (d) (3) and (7) of this section, respectively, or equivalent methods should be used. Data shall be provided on whether the animal is cycling and the cycle length.

(*iv*) P_0 and F_1 females shall continue to be exposed to MEKO for at least an additional 2 weeks following weaning of offspring to permit them to be cycling once again. They shall then be sacrificed and their ovaries shall be serially sectioned with a sufficient number of sections examined to adequately detail oocyte and follicular morphology. The methods of Mattison and Thorgiersson (1979) and Pederson and Peters (1968) under paragraphs (d) (4) and (5) of this section, respectively, may provide guidance. The strategy for sectioning and evaluation is left to the discretion of the investigators, but shall be described in detail in the study plan and final report. The nature and background level of lesions in control tissue shall also be noted.

(*v*) Gross and histopathologic evaluations shall be conducted on the mammary glands in female F_1 and F_2 pups sacrificed at weaning and in adult F_1 females at the termination of the study. Any abnormalities shall be described in the final report.

(ii) *Reporting requirements.* (A) Reproductive toxicity testing shall be completed and a final report submitted to EPA within 24 months of the date specified in paragraph (e) of this section.

(B) Interim progress reports shall be submitted to EPA 6, 12, and 18 months after the date specified in paragraph (e) of this section.

(5) *Mutagenic effects—gene mutations*—(i) *Required testing.* The sex-linked recessive lethal assay in *Drosophila* shall be conducted with MEKO in accordance with § 798.5275 of this chapter.

(ii) *Reporting requirements.* (A) The sex-linked recessive lethal assay in *Drosophila* shall be completed and a final report submitted to EPA within 18 months of the date specified in paragraph (e) of this section.

(B) Interim progress reports shall be submitted to EPA 6 and 12 months after the date specified in paragraph (e) of this section.

(6) *Mutagenic effects—chromosomal aberrations*—(i) *Required testing.* (A)(*1*) An *in vivo* mammalian bone narrow cytogenetics test shall be conducted with MEKO in accordance with either § 798.5385 (chromosomal analysis) of this chapter, except paragraphs (d)(5) (ii) and (iii) of § 798.5385 or § 798.5395 (micronucleus assay) of this chapter except for the provisions in paragraphs (d)(5) (ii) and (iii) of § 798.5395.

(*2*) For the purpose of paragraph (c)(6) of this section, the following provisions also apply if § 798.5385 of this chapter is used in conducting the test:

(*i*) *Dose levels and duration of exposure.* At least three dose levels shall be tested. The highest dose tested shall be the maximum tolerated dose or that dose producing some signs of cytotoxicity (e.g., partial inhibition of mitosis) or shall be the highest dose attainable. Animals shall be exposed 6 hours per day for 5 consecutive days.

(*ii*) *Route of administration.* Animals shall be exposed to MEKO orally.

(*3*) For the purpose of this paragraph (c)(6), the following provisions also apply if § 798.5395 of this chapter is used in conducting the test:

(*i*) *Dose levels and duration of exposure.* At least three dose levels shall be tested. The highest dose tested shall be the maximum tolerated dose or that dose producing some sign of cytotoxicity (e.g., a change in the ratio of polychromatic to normochromatic erythrocytes) or shall be the highest dose attainable. Animals shall be exposed 6 hours per day for 5 consecutive days.

(*ii*) *Route of administration.* Animals shall be exposed to MEKO orally.

(ii) *Reporting requirements.* (A) The *in vivo* mammalian cytogenetics test shall be completed and a final report submitted to EPA within 8 months of the date specified in paragraph (e) of this section.

(B) No interim progress report is required for the *in vivo* mammalian bone marrow cytogenetics test.

(7) *Neurotoicity*—(i) *Required testing*—(A) *Functional observation battery.* (*1*) A functional observation battery shall be conducted with MEKO in accordance with § 798.6050 of this chapter except for the provisions in paragraphs (d) (4)(ii), (5), and (6) of § 798.6050.

(*2*) For the purpose of paragraph (c)(7)(i)(A) of this section, the following provisions also apply:

(*i*) *Lower doses.* The data from the lower doses shall show either graded dose-dependent effects in at least two of all the doses tested including the highest dose, or no neurotoxic (behavioral) effects at any dose tested.

(*ii*) *Duration and frequency of exposure.* For the acute testing, animals shall be exposed for 6 hours per day for 1 day. For the subchronic testing, animals shall be exposed for 6 hours per day 5 days per week for a 90-day period.

(*iii*) *Route of exposure.* Animals shall be exposed orally.

(B) *Motor activity.* (*1*) A motor activity test shall be conducted with MEKO in accordance with § 798.6200 of this chapter except for provisions in paragraphs (d) (4)(ii), (5), and (6) of § 798.6200.

(*2*) For the purpose of paragraph (c)(7)(i)(B) of this section, the following provisions also apply:

(*i*) *Lower doses.* The data from the lower doses shall show either graded dose-dependent effects in at least two of all the doses tested including the highest dose, or no neurotoxic (behavioral) effects at any dose tested.

(*ii*) *Duration and frequency of exposure.* For the acute testing, animals shall be exposed for 6 hours per day for 1 day. For the subchronic testing, animals shall be exposed for 6 hours per day 5 days per week for a 90-day period.

(*iii*) *Route of exposure.* Animals shall be exposed orally.

(C) *Neuropathology.* (*1*) A neuropathology test shall be conducted with MEKO in accordance with § 798.6400 of this chapter except for provisions in paragraphs (d)(4) (ii), (5), (6), and (8)(iv)(C) of § 798.6400.

(*2*) For the purpose of paragraph (c)(7)(i)(C) of this section, the following provisions also apply:

(*i*) *Lower doses.* The data from the lower doses shall show either graded dose-dependent effects in at least two of all the doses tested including the highest

dose, or no neurotoxic (behavioral) effects at any dose tested.

(*ii*) *Duration of frequency of exposure.* Animals shall be exposed for 6 hours per day 5 days per week for a 90-day period.

(*iii*) *Route of exposure.* Animals shall be exposed orally.

(*iv*) *Clearing and embedding.* After dehydration, tissue specimens shall be cleared with xylene and embedded in paraffin or paraplast except for the sural nerve which should be embedded in plastic. Multiple tissue specimens (e.g., brain, cord, ganglia) may be embedded together in one single block for sectioning. All tissue blocks shall be labeled to provide unequivocal identification. A method for plastic embedding is described by Spencer et al. in paragraph (d)(6) of this section.

(ii) *Reporting requirements.* (A) The neurotoxicity tests required under this paragraph (c)(7) shall be completed and the final results submitted to EPA within 12 months of the date specified in paragraph (e) of this section.

(B) An interim progress report shall be submitted to EPA 6 months after the date specified in paragraph (e) of this section.

(d) *References.* For additional background information, the following references should be consulted.

(1) Lamb, J.C. and Chappin, R.E. "Experimental models of male reproductive toxicology." In: *Endocrine Toxicology.* Thomas, J.A., Korach, K.S., and McLachlan, J.A., eds. New York, NY: Raven Press. pp. 85–115. (1985).

(2) Clermont, Y. and Perey, B. "Quantitative study of the cell population of the seminiferous tubules in immature rats." *American Journal of Anaatomy.* 100:241–267. (1957).

(3) Sadleir, R.M.F.S. "Cycles and seasons." In: *Reproduction in Mammals: I. Germ Cells and Fertilization* Austin, C.R. and Short R.V., eds. New York, NY: Cambridge Press. Chapter 4. (1978).

(4) Mattison, D.R. and Thorgiersson, S.S. "Ovarian aryl hydrocarbon hydroxylase activity and primordial oocyte toxicity of polycyclic aromatic hydrocarbons in mice." *Cancer Research* 39:3471–3475. (1979).

(5) Pederson, T. and Peters, H. "Proposal for classification of oocytes and follicles in the mouse ovary". *Journal of Reproduction and Fertility.* 17:555–557. (1968).

(6) Spencer, P.S., Bischoff, M.C., and Schaumburg, H.H. "Neuropathological methods for the detection of neurotoxic disease." In: *Experimental and Clinical Neurotoxicology.* Spencer, P.S. and Schaumburg, H.H., eds. Baltimore, MD: Williams and Wilkins, pp. 743–757 (1980).

(7) Hafez, E.S., ed., *Reproduction and Breeding Techniques for Laboratory Animals.* Chapter 10. Philadelphia: Lea and Febiger. (1970).

(e) *Effective date.* (1) The effective date of the final rule for MEKO will be 44 days after the date of publication of the final rule.

(2) The guidelines and other test methods cited in this section are referenced here as they exist on the effective date of the final rule.

(Information collection requirements have been approved by the Office of Management and Budget under Control Number 2070–0033)

[FR Doc. 88–20908 Filed 9–14–88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 88–411; FCC 88–278]

Airborne Use of Cellular Units and the Use of Cell Enhancers in the Domestic Public Cellular Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This notice invites comments on two issues relating to the Domestic Public Cellular Radio Telecommunications Service. The first, concerns the Commission's proposal to codify its policy and rules prohibiting the installation or operation of cellular units in aircraft. Such action is necessary in order to clarify our present rules and substantiate our policy. The second issue concerns proposed rules and standards that would authorize the use of cell enhancers, devices that receive, amplify and retransmit the signals of a particular cell site and its associated mobiles, to and from areas of poor coverage. This proposal is necessary, since our present rules do not provide for the use of cell enhancers, or specifiy technical standards for the device. As a result, enhancers can presently be authorized only through developmental authorization. We are proposing to add rules that would allow for the routine licensing of cell enhancers.

DATES: Comments must be received on or before October 24, 1988. Reply comments must be received on or before November 8, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael Ferrante (202) 653–5560.

List of Subjects in 47 CFR Part 22

Radio.

Rules Section

Part 22 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 22—PUBLIC MOBILE SERVICE

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

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154,303).

2. Section 22.2 is amended by adding the following definition:

§ 22.2 Definitions.

* * * * *

Cell enhancer. A fixed station in the Domestic Public Cellular Radio Telecommunications Service, used to improve signal strength in areas of poor service, which receives, amplifiers, and re-transmits the signals of a cellular base or mobile station, without modification of frequency, emission or modulation characteristcs.

* * * * *

3. Section 22.904 is amended by adding paragraph (d) to read as follows:

§ 22.904 Power limitations.

* * * * *

(d) Cell enhancers utilized in this service shall not exceed a maximum power output equivalent to 0.25 watts per channel.

4. Section 22.907 is amended by adding paragraph (k) to read as follows:

§ 22.907 Emission requirements.

* * * * *

(k) Cell enhancers used in this service must attenuate unwanted emissions below the mean power of the unmodulated carrier in accordance with the following schedule:

(1) From the band edge of the respective cellular frequency block, up to and including 20 kHz removed from the band edge: at least 26 decibels.

(2) Greater than 20 kHz from the band edge: 43+10 log (mean output power in watts) decibels.

(3) Testing for the above emission limits shall be performed in the following manner: three carrier frequencies shall be contained within the frequency block covered by the band

enhancer. These signals shall be within that portion of the band where the gain of the cell enhancer is within 6 db of the maximum gain exhibited by the enhancer. The location of the carrier signals shall be adjusted such that at least one third order intermodulation product falls within the upper band edge and the upper band edge plus 20 kHz and between the lower band edge and the lower band edge minus 20 kHz. Two separate tests with different placement of the carrier frequencies may be employed for this test.

5. Section 22.911 is amended by adding paragraph (a)(1) to read as follows:

§ 22.911 Permissible communications.

(a) * * *

(1) Mobile stations or portable units may not be installed or operated in aircraft, ballons or any other vehicle capable of airborne operation.

6. Add new § 22.922 to read as follows:

§ 22.922 Cell enhancers.

Licensees in this service may use a cell enhancer at any location within its authorized CGSA. Authorization of cell enhancers is subject to prior notification on FCC Form 489. A Schedule B of FCC Form 401 should be attached for each enhancer utilized. Any antennas used in conjunction with an enhancer, must be less than 100 feet above ground, without exceeding Section 17.7 of the Commission's rules or must be 20 feet or less above ground or the highest point of an existing man-made structure (other than an antenna tower.) If an antenna exceeds these limits, a licensee must notify the FAA of the proposed construction and obtain marking and lighting specifications from the Commission before installing the enhancer. Licensees are required to notify all other cellular carriers operating within the same MSA, NECMA or RSA of the use of an enhancer. Notification should contain the location of the enhancer and its associated cell site, together with the frequencies to be amplified. Enhancers are authorized on a secondary and non-interfering basis to other cellular systems operating within the same MSA, NECMA or RSA. In addition, use of cell enhancers are subject to the frequency coordination procedures described in § 22.902(d) of the rules.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-20808 Filed 9-14-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Part 352

Solicitation Provisions and Contract Clauses

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is proposing to amend its acquisition regulations to update its existing sets of general provisions and to add six new sets. The update will consolidate all additions, removals, and revisions to the existing general provisions which have not undergone a major revision since April, 1984.

DATE: Comments must be received by October 31, 1988.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulations may do so by filing them with Norman Audi, Procurement Policy Staff, OPAL-OASMB-OS, Room 513 D, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Norman Audi (202) 245-0326.

SUPPLEMENTARY INFORMATION: The proposed revisions are updates to the existing general provisions for Departmental contracts. The update includes: (1) Renaming the general provisions to general clauses; (2) Revising the general provisions to include the latest Federal Acquisition Regulation (FAR) and Health and Human Services Acquisition Regulation (HHSAR) clauses which are required by the regulations; (3) Establishing six new sets of general clauses for Negotiated Fixed-Price Service Contracts, Cost-Reimbursment Service Contracts, Cost-Reimbursement Research and Development Contracts, Time-and Materials or Labor-Hour Contracts, Sealed Bid Construction Contracts, and Negotiated Fixed-Price Architect-Engineer Contracts

The general clauses will provide consistency and uniformity in use of the FAR and HHSAR clauses required in Departmental contracts. The general clauses will reduce contractor uncertainty as to which clauses would apply to their contracts with HHS. It will also reduce administrative burden on the parts of both government and contractor personnel in preparing, reviewing, and understanding the Department's contract clauses.

The FAR and HHSAR clauses have already undergone the rulemaking process; therefore, we are not inviting comments on the contents of the clauses. Comments are requested only on the use of the types of general clauses proposed and the appropriateness of the clauses which are included in each set.

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

This document does not contain information collection requirements which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

The provisions of this proposed regulation will be issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Part 352

Government procurement

It is proposed to amend 48 CFR Chapter 3 in the manner set forth below.

Dated: August 31, 1988.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

As indicated in the preamble, Chapter 3 of Title 48, Code of Federal Regulations, is proposed to be amended as shown.

1. The authority citation for Part 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

2. The table of contents for Subpart 352.3 is revised to read as follows:

Subpart 352.3—Provision and Clause Matrices

Sec.
352.370 General.
Negotiated Fixed-Price Supply Contract
Cost-Reimbursement Supply Contract
Negotiated Fixed-Price Service Contract
Cost-Reimbursement Service Contract
Negotiated Fixed-Price Research and Development Contract
Cost-Reimbursement Research and Development Contract
Sealed Bid Contract
Cost-Plus-A-Fixed-Fee Contract
Cost-Reimbursement Contract With Nonprofit Institutions
Other Than Educational Institutions
Cost-Reimbursement Contract With Educational Institutions
Time-and-Materials or Labor-Hour Contract

Sealed Bid Construction Contract
Negotiated Fixed-Price Architect-Engineer Contract

3. Section 352.370(c) revised to read as follows:

352.370 General.

* * * * *

(c) The general clauses for cost-reimbursement contracts with nonprofit institutions other than educational institutions shall be utilized with the following modifications whenever a contract with a nonprofit institution provides for the payment of a fixed fee:

(1) Add the clause entitled "Facilities Capital Cost of Money" (SEP 1987) if the prospective contractor proposes facilities capital cost of money in its offer (See FAR 52.215-30 for the text of the clause). Add the clause "Waiver of Facilities Capital Cost of Money" (SEP 1987) if the prospective contractor does not propose facilities capital cost of money in its offer (See FAR 52.215-31 for the text of the clause).

(2) Add the clause entitled "Fixed Fee" (APR 1984) (See FAR 52.216-8 for the text of the clause).

(3) Delete "Alternate I" (JUL 1985) of clause 41 entitled "Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986).

Subpart 352.3—[Amended]

4. The clause matrices are revised to read as follows:

GENERAL CLAUSES FOR A NEGOTIATED FIXED-PRICE SUPPLY CONTRACT

Clauses Incorporated By Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984).
2.	52.203-3	Gratuities (APR 1984).
3.	52.203-5	Covenant Against Contingent Fees (APR 1984).
4.	52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1985).
5.	52.203-7	Anti-Kickback Procedures (FEB 1987).
6.	52.215-1	Examination of Records by Comptroller General (APR 1984).
7.	52.215-2	Audit—Negotiation (APR 1988).
8.	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988).
9.	52.215-24	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985).
(The following clause is applicable when contracting with full and open competition.)		
10.	52.215-26	Integrity of Unit Prices (APR 1987).
		OR
(The following clause is applicable when contracting without full and open competition.)		
10.	52.215-26	Integrity of Unit Prices (APR 1987) Alternate I (APR 1987).
11.	52.215-33	Order of Precedence (JAN 1986).
12.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
13.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984).
14.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986).
15.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984).
16.	52.222-20	Walsh-Healey Public Contracts Act (APR 1984).
17.	52.222-26	Equal Opportunity (APR 1984).
18.	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
19.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
20.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984).
21.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
22.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984).
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
23.	52.225-3	Buy American Act—Supplies (AUG 1988).
24.	52.227-1	Authorization and Consent (APR 1984).
25.	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
26.	52.227-3	Patent Indemnity (APR 1984).
27.	52.227-14	Rights in Data—General (JUN 1987).
28.	52.229-3	Federal, State, and Local Taxes (For Competitive Contract) (APR 1984).
		OR
28.	52.229-4	Federal, State, and Local Taxes (Noncompetitive Contract) (APR 1984).
29.	52.229-5	Taxes—Contracts Performed in U.S. Possessions or Puerto Rico (APR 1984).
30.	52.232-1	Payments (APR 1984).
31.	52.232-8	Discounts for Prompt Payment (JUL 1985).
32.	52.232-9	Limitation on Withholding of Payments (APR 1984).
33.	52.232-11	Extras (APR 1984).
34.	52.232-17	Interest (APR 1984).
35.	52.232-23	Assignment of Claims (JAN 1986).
36.	52.232-25	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
37.	52.233-1	Disputes (APR 1984).

No.	FAR clause No.	Title and date
38.	52.233-3	Protest After Award (JUN 1985).
39.	52.243-1	Changes-Fixed-Price (Aug 1987).
40.	52.244-1	Subcontracts (Fixed-Price Contracts) (Over $500,000) (JAN 1986).
41.	52.244-5	Competition in Subcontracting (APR 1984).
42.	52.245-2	Government Property (Fixed-Price Contracts) (APR 1984).
43.	52.246-2	Inspection of Supplies-Fixed Price (JUL 1985).
44.	52.246-16	Responsibility for Supplies (APR 1984).
45.	52.249-2	Termination for Convenience of the Government (Fixed-Price) (APR 1984).
46.	52.249-8	Default (Fixed-Price Supply and Service (APR 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1	Definitions (APR 1984).
2.	352.232-9	Withholding of Contract Payments (APR 1984).
3.	352.270-4	Pricing of Adjustments (APR 1984).
4.	352.270-7	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A COST-REIMBURSEMENT SUPPLY CONTRACT

Clauses Incorporated By Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984).
2.	52.203-3	Gratuities (APR 1984).
3.	52.203-5	Covenant Against Contingent Fees (APR 1984).
4.	52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1985).
5.	52.203-7	Anti-Kickback Procedures (FEB 1987).
6.	52.215-1	Examination of Records by Comptroller General (APR 1984).
7.	52.215-2	Audit—Negotiation (APR 1988).
8.	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988).
9.	52.215-24	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985).

(The following clause is applicable when contracting with full and open competition.)

10.	52.215-26	Integrity of Unit Prices (APR 1987).

(The following clause is applicable when contracting without full and open competition.)

10.	52.215-26	Integrity of Unit Prices (APR 1987) Alternate I (APR 1987.

(If the contractor proposed facilities capital cost of money in its offer, the following clause is applicable.)

11.	52.215-30	Facilities Capital Cost of Money (SEP 1987).

OR

11.	52.215-31	Waiver of Facilities Capital Cost of Money (SEP 1987).
12.	52.215-33	Order of Precedence (JAN 1986).
13.	52.216-7	Allowable Cost and Payment (APR 1984).
14.	52.216-8	Fixed Fee (APR 1984).
15.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
16.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984).
17.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986).
18.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984).
19.	52.222-20	Walsh-Healey Public Contracts Act (APR 1984).
20.	52.2222-26	Equal Opportunity (APR 1984).
21.	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
22.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
23.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984).
24.	52.222-37	Employment Reports on Speical Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
25.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984).

(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)

26.	52.225-3	Buy American Act—Supplies (AUG 1988).
27.	52.227-1	Authorization and Consent (APR 1984).

No.	FAR clause No.	Title and date
28.	52.227-2.....	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
29.	52.227-3.....	Patent Indemnity (APR 1984).
30.	52.227-14.....	Rights in Data—General (JUN 1987).
31.	52.232-9.....	Limitation on Withholding of Payments (APR 1984).
32.	52.232-17.....	Interest (APR 1984).
33.	52.232-20.....	Limitation of Cost (APR 1984).

OR

(The following clause is applicable if the contract is incrementally funded.)

33.	52.232-22.....	Limitation of Funds (APR 1984).
34.	52.232-23.....	Assignment of Claims (JAN 1986).
35.	52.232-25.....	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
36.	52.233-1.....	Disputes (APR 1984).
37.	52.233-3.....	Protest After Award (JUN 1985) Alternate I (JUN 1985).
38.	52.242-1.....	Notice of Intent to Disallow Costs (APR 1984).
39.	52.243-2.....	Changes—Cost-Reimbursement (AUG 1987).
40.	52.244-2.....	Subcontracts (Cost-Reimbursement and Letter Contracts) (JUL 1985).
41.	52.244-5.....	Competition in Subcontracting (APR 1984).
42.	52.245-5.....	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986).
43.	52.246-3.....	Inspection of Supplies—Cost-Reimbursement (APR 1984).
44.	52.246-23.....	Limitation of Liability (APR 1984).
45.	52.249-6.....	Termination (Cost-Reimbursement) (MAY 1986).
46.	52.249-14.....	Excusable Delays (APR 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1.....	Definitions (APR 1984) Alternate I (APR 1984).
2.	352.228-70....	Required Insurance (APR 1984).
3.	352.232-9.....	Withholding of Contract Payments (APR 1984).
4.	352.233-70....	Litigation and Claims (APR 1984).
5.	352.242-71....	Final Decisions on Audit Findings (APR 1984).
6.	352.270-5.....	Key Personnel (APR 1984).
7.	352.270-7.....	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A NEGOTIATED FIXED-PRICE SERVICE CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1.....	Officials Not to Benefit (APR 1984).
2.	52.203-3.....	Gratuities (APR 1984).
3.	52.203-5.....	Covenant Against Contingent Fees (APR 1984).
4.	52.203-6.....	Restrictions on Subcontractor Sales to the Government (JUL 1985).
5.	52.203-7.....	Anti-Kickback Procedures (FEB 1987).
6.	52.215-1.....	Examination of Records by Comptroller General (APR 1984).
7.	52.215-2.....	Audit-Negotiation (APR 1988).
8.	52.215-22.....	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988).
9.	52.215-24.....	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985).
10.	52.215-33.....	Order of Precedence (JAN 1986).
11.	52.219-8.....	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
12.	52.219-9.....	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984).
13.	52.219-13.....	Utilization of Women-Owned Small Businesses (AUG 1986).
15.	52.220-3.....	Utilization of Labor Surplus Area Concerns (APR 1984).
16.	52.222-3.....	Convict Labor (APR 1984).
17.	52.222-4.....	Contract Work Hours and Safety Standards Act—Overtime Compensation (MAR 1986).
18.	52.222-26.....	Equal Opportunity (APR 1984).
19.	52.222-28.....	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
20.	52.222-35.....	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984)
21.	52.222-36.....	Affirmative Action for Handicapped Workers (APR 1984).

No.	FAR clause No.	Title and date
22.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
23.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984).
25.	52.227-1	Authorization and Consent (APR 1984).
26.	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
27.	52.227-3	Patent Indemnity (APR 1984).
28.	52.227-14	Rights in Data-General (JUN 1987).
29.	52.229-3	Federal, State, and Local Taxes (For Competitive Contract) (APR 1984).
		OR
29.	52.229-4	Federal, State, and local Taxes (Noncompetitive Contract) (APR 1984).
30.	52.229-5	Taxes—Contracts Performed in U.S. Possessions or Puerto Rico (APR 1984).
31.	52.232-1	Payments (APR 1984)
32.	52.232-8	Discounts for Prompt Payment (JUL 1985)
33.	52.232-9	Limitation on Withholding of Payments (APR 1984).
34.	52.232-11	Extras (APR 1984).
35.	52.232-17	Interest (APR 1984).
36.	52.232-23	Assignment of Claims (JAN 1986)
37.	52.232-25	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
38.	52.233-1	Disputes (APR 1984).
39.	52.233-3	Protest After Award (JUN 1985).
40.	52.243-1	Changes-Fixed-Price (Aug 1987) Alternate I (APR 1984).
41.	52.244-1	Subcontracts (Fixed-Price Contracts) (Over $500,000) (JAN 1986).
42.	52.244-5	Competition in Subcontracting (APR 1984).
43.	52.245-2	Government Property (Fixed-Price Contracts) (APR 1984).
44.	52.246-4	Inspection of Services-Fixed Price (APR 1984).
45.	52.246-25	Limitation of Liability-Services (APR 1984).
46.	52.249-4	Termination for Convenience of the Government (Services) (Short Form) (APR 1984).
47.	52.249-8	Default (Fixed-Price Supply and Service (APR 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1	Definitions (APR 1984).
2.	352.232-9	Withholding of Contract Payments (APR 1984).
3.	352.270-4	Pricing of Adjustments (APR 1984).
4.	352.270-7	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A COST-REIMBURSEMENT SERVICE CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984).
2.	52.203-3	Gratuities (APR 1984).
3.	52.203-5	Covenant Against Contingent Fees (APR 1984).
4.	52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1985).
5.	52.203-7	Anti-Kickback Procedures (FEB 1987).
6.	52.215-1	Examination of Records by Comptroller General (APR 1984).
7.	52.215-2	Audit—Negotiation (APR 1988).
8.	52.215-22	Price Reductoin for Defective Cost or Pricing Data (Over $100,000) (APR 1988).
9.	52.215-24	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985).
(If the contractor proposed facilities capital cost of money in its proposal, the following clause is applicable.)		
10.	52.215-30	Facilities Capital Cost of Money (SEP 1987).
		OR
10.	52.215-31	Waiver of Facilities Capital Cost of Money (SEP 1987).
11.	52.215-33	Order of Precedence (JAN 1986).
12.	52.216-7	Allowable Cost and Payment (APR 1984).
13.	52.216-8	Fixed Fee (APR 1984).
14.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
15.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984).

No.	FAR clause No.	Title and date
16.	52.219-13.....	Utilization of Women-Owned Small Businesses (AUG 1986).
18.	52.220-3.....	Utilization of Labor Surplus Area Concerns (APR 1984).
19.	52.222-3.....	Convict Labor (APR 1984).
20.	52.222-4.....	Contract Work Hours and Safety Standards Act—Overtime Compensation (MAY 1986).
21.	52.222-26.....	Equal Opportunity (APR 1984).
22.	52.222-28.....	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
23.	52.222-35.....	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
24.	52.222-36.....	Affirmative Action for Handicapped Workers (APR 1984).
25.	52.222-37.....	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
26.	52.223-2.....	Clean Air and Water (Over $100,000) (APR 1984).
28.	52.227-1.....	Authorization and Consent (APR 1984).
29.	52.227-2.....	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
30.	52.227-3.....	Patent Indemnity (APR 1984).
31.	52.227-14.....	Rights in Data—General (JUN 1987).
32.	52.232-9.....	Limitation on Withholding of Payments (APR 1984).
33.	52.232-17.....	Interest (APR 1984).
34.	52.232-20.....	Limitation of Cost (APR 1984).

OR

(The following clause is applicable if the contract is incrementally funded.)

34.	52.232-22.....	Limitation of Funds (APR 1984).
35.	52.232-23.....	Assignment of Claims (JAN 1986).
36.	52.232-25.....	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
37.	52.233-1.....	Disputes (APR 1984).
38.	52.233-3.....	Protest After Award (JUN 1985) Alternate I (JUN 1985).
39.	52.242-1.....	Notice of Intent to Disallow Costs (APR 1984).
40.	52.243-2.....	Changes—Cost-Reimbursement (AUG 1987) Alternate I (APR 1984).
41.	52.244-2.....	Subcontracts (Cost-Reimbursement and Letter Contracts) (JUL 1985).
42.	52.244-5.....	Competition in Subcontracting (APR 1984).
43.	52.245-5.....	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986).
44.	52.246-5.....	Inspection of Services—Cost-Reimbursement (APR 1984).
45.	52.246-25.....	Limitation of Liability—Services (APR 1984).
46.	52.249-6.....	Termination (Cost-Reimbursement) (May 1986).
47.	52.249-14.....	Excusable Delays (APR 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1.....	Definitions (APR 1984) Alternate I (APR 1984).
2.	352.228-70....	Required Insurance (APR 1984).
3.	352.232-9.....	Withholding of Contract Payments (APR 1984).
4.	352.233-70....	Litigation and Claims (APR 1984).
5.	352.242-71....	Final Decisions on Audit Findings (APR 1984).
6.	352.270-5.....	Key Personnel (APR 1984).
7.	352.270-7.....	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A NEGOTIATED FIXED-PRICE RESEARCH AND DEVELOPMENT CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1)

No.	FAR Clause No.	Title and date
1.	52.203-1.....	Officials Not to Benefit (APR 1984).
2.	52.203-3.....	Gratuities (APR 1984).
3.	52.203-5.....	Covenant Against Contingent Fees (APR 1984).
4.	52.203-7.....	Anti-Kickback Procedures (FEB 1987).
5.	52.215-1.....	Examination of Records by Comptroller General (APR 1984).
6.	52.215-2.....	Audit—Negotiation (APR 1988).
7.	52.215-22.....	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988).
8.	52.215-24.....	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985).

(The following clause is applicable when contracting with full and open competition.)

No.	FAR Clause No.	Title and date
9.	52.215-26.....	Integrity of Unit Prices (APR 1987).
		OR
(The following clause is applicable when contracting with full and open competition.)		
9.	52.215-26.....	Intergrity of Unit Prices (APR 1987) Alternate I (APR 1987).
10.	52.215-33.....	Order of Precedence (JAN 1986).
11.	52.219-8.....	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
12.	52.219-9.....	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (AUG 1984).
13.	52.219-13.....	Utilization of Women-Owned Small Businesses (AUG 1986).
14.	52.220-3.....	Utilization of Labor Surplus Area Concerns (APR 1984).
15.	52.222-20.....	Walsh-Healey Public Contracts Act (APR 1984).
16.	52.222-26.....	Equal Opportunity (APR 1984).
17.	52.222-28.....	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
18.	52.222-35.....	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
19.	52.222-36.....	Affirmative Action for Handicapped Workers (APR 1984).
20.	52.222-37.....	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
21.	52.223-2.....	Clean Air and Water (Over $100,000) (APR 1984).
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
22.	52.225-3.....	Buy American Act—Supplies (AUG 1988).
23.	52.227-1.....	Authorization and Consent (APR 1984)—Alternate I (APR 1984).
24.	52.227-2.....	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
25.	52.227-11.....	Patent Rights—Retention by the Contractor (Short Form) (APR 1984) Note: In accordance with FAR 27.303(a)(2), paragraph is modified to include the requirements in FAR 27.303(a)(2)(i) through (v). The frequency of reporting in (i) is annual.
26.	52.227-14.....	Rights in Data—General (JUN 1987).
27.	52.227-16.....	Additional Data Requirements (JUN 1987).
28.	52.229-3.....	Federal, State, and Local Taxes (Competitive Contract) (APR 1984).
		OR
28.	52.229-4.....	Federal State, and Local Taxes (Noncompetitive Contract) (APR 1984).
29.	52.229-5.....	Taxes—Contracts Performed in U.S. Possessions or Puerto Rico (APR 1984).
30.	52.232-2.....	Payments Under Fixed-Price Research and Development Contracts (APR 1984).
31.	52.232-9.....	Limitation on Withholding of Payments (APR 1984).
32.	52.232-17.....	Interest (APR 1984).
33.	52.232-23.....	Assignment of Claims (JAN 1986).
34.	52.232-25.....	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
35.	52.233-1.....	Disputes (APR 1984).
36.	52.233-3.....	Protest After Award (JUN 1986).
37.	52.243-1.....	Changes-Fixed-Price (Aug 1987) Alternate V (APR 1984).
38.	52.244-1.....	Subcontracts (Fixed-Price Contracts) (Over $500,000) (JAN 1986).
39.	52.244-5.....	Competition in Subcontracting (APR 1984).
40.	52.245-2.....	Government Property (Fixed-Price Contracts) (APR 1984) Alternate I (APR 1984).
		OR
(If the contract is for the conduct of basic or applied research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research, the following clause is applicable.)		
40.	52.245-2.....	Government Property (Fixed-Price Contracts) (APR 1984) Alternate II (JUL 1985).
(If the Primary objective of the contract is the delivery of end items other than designs, drawings, or reports, the following clause is applicable.)		
41.	52.246-7.....	Inspection of Research and Development-Fixed Price (APR 1984).
		OR
41.	52.246-9.....	Inspection of Research and Development (Short Form) (APR 1984).
42.	52.246-16.....	Responsibility for Supplies (APR 1984).
43.	52.246-23.....	Limitation of Liability (APR 1984).
(If the contract is awarded to other than an educational or nonprfit institution on a no-profit basis, the following clause is applicable.)		
44.	52.249-2.....	Termination for Convenience of the Government (Fixed-Price) (APR 1984).
		OR
(If the contract is awarded to an educational or nonprofit institution on a no-profit basis, the following clause is applicable.)		
44.	52.249-5.....	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (APR 1984).
(The following clause is applicable unless the contract is awarded on a no-fee basis to an educational or nonprofit institution.)		
45.	52.249-9.....	Default (Fixed-Price Research and Development) (APR 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR Clause No.	Title and date
1.	352.202-1.....	Definitions (APR 1984).
2.	352.232-9.....	Withholding of Contract Payments (APR 1984).

No.	HHSAR Clause No.	Title and date
(The following clause is applicable if the contract is awarded to an educational or nonprofit institution.)		
3.	352.249-14	Excusable Delays (APR 1984).
4.	352.270-4	Pricing of Adjustments (APR 1984).
5.	352.270-7	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A COST-REIMBURSEMENT RESEARCH AND DEVELOPMENT CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984).
2.	52.203-3	Gratuities (APR 1984).
3.	52.203-5	Covenant Against Contingent Fees (APR 1984).
4.	52.203-7	Anti-Kickback Procedures (FEB 1987).
5.	52.215-1	Examination of Records by Comptroller General (APR 1984).
6.	52.215-2	Audit—Negotiation (APR 1988).
7.	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988).
8.	52.215-24	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985).
(The following clause is applicable when contracting with full and open competition.)		
9.	52.215-26	Integrity of Unit Prices (APR 1987).
		OR
(The following clause is applicable when contracting without full and open competition.)		
9.	52.215-26	Integrity of Unit Prices (APR 1987) Alternate I (APR 1987).
(If the contractor proposed facilities capital cost of money in its offer, the following clause is applicable.)		
10.	52.215-30	Facilities Capial Cost of Money (SEP 1987).
		OR
10.	52.215-31	Waiver of Facilities Capital Cost of Money (SEP 1987).
11.	52.215-33	Order of Precedence (JAN 1986).
12.	52.216-7	Allowable Cost and Payment (APR 1984).
13.	52.216-8	Fixed Fee (APR 1984).
14.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
15.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984).
16.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986).
17.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984).
18.	52.222-20	Walsh-Healey Public Contracts Act (APR 1984).
19.	52.222-26	Equal Opportunity (APR 1984).
20.	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
21.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
22.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984).
23.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
24.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984).
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
25.	52.225-3	Buy American Act—Supplies (AUG 1988).
26.	52.227-1	Authorization and Consent (APR 1984) Alternate I (APR 1984).
27.	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
28.	52.227-11	Patent Rights—Retention by the Contractor (Short Form) (APR 1984) Note: In accordance with FAR 27.303(a)(2), paragraph (f) is modified to include the requirements in FAR 27.303(a) (i) through (v). The Frequency of reporting in (i) is annual.
29.	52.227-14	Rights in Data—General (JUN 1987).
30.	52.227-16	Additional Data Requirements (JUN 1987).
31.	52.232-9	Limitation on Withholding of Payments (APR 1984).
32.	52.232-17	Interest (APR 1984).
33.	52.232-20	Limitation of Cost (APR 1984).
		OR
(The following clause is applicable if the contract is incrementally funded.)		
33.	52.232-22	Limitation of Funds (APR 1984).
34.	52.232-23	Assignment of Claims (JAN 1986).
35.	52.232-25	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
36.	52.233-1	Disputes (APR 1984).

No.	FAR clause No.	Title and date
37.	52.233-3	Protest After Award (JUN 1985) Alternate I (JUN 1985).
38.	52.242-1	Notice of Intent to Disallow Costs (APR 1984).
39.	52.243-2	Changes—Cost-Reimbursement (Aug 1987) Alternate V (APR 1984).
40.	52.244-2	Subcontracts (Cost-Reimbursement and Letter Contracts) (JUL 1985).
41.	52.244-5	Competition in Subcontracting (APR 1984).
42.	52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986).
		OR
(If the contract is for the conduct of basic or applied research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research, the following clause is applicable.)		
42.	52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986) Alternate I (JUL 1985).
(If the primary objective of the contract is the delivery of end items other than designs, drawings, or reports, the following clause is applicable.)		
43.	52.246-8	Inspection of Research and Development-Cost-Reimbursement (APR 1984).
		OR
43.	52.246-9	Inspection of Research and Development (Short Form) (APR 1984).
44.	52.246-23	Limitation of Liability (APR 1984).
(If the contract is awarded to an educational or nonprofit institution on a no-profit or no-fee basis, the following clause is applicable.)		
45.	52.249-5	Termination for Convenience of the Government (Educational and Nonprofit Institutions) (APR 1984).
		OR
45.	52.249-6	Termination (Cost-Reimbursement) (May 1986).
46.	52.249-14	Excusable Delays (APR 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1	Definitions (APR 1984) Alternate I (APR 1984).
2.	352.228-70	Required Insurance (APR 1984).
3.	352.232-9	Withholding of Contract Payments (APR 1984).
4.	352.233-70	Litigation and Claims (APR 1984).
5.	352.242-71	Final Decisions on Audit Findings (APR 1984).
6.	352.270-5	Key Personnel (APR 1984).
7.	352.270-7	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A SEALED BID SUPPLY CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause no.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984).
2.	52.203-3	Gratuities (APR 1984).
3.	52.203-5	Covenant Against Contingent Fees (APR 1984).
4.	52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1985).
5.	52.203-7	Anti-Kickback Procedures (FEB 1987).
6.	52.214-26	Audit—Sealed Bidding (Over $100,000) (APR 1985).
7.	52.214-27	Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding (Over $100,000) (APR 1988).
8.	52.214-28	Subcontractor, Cost or Pricing Data—Modifications—Sealed Bidding (Over $100,000) (APR 1985).
9.	52.214-29	Order of Precedence—Sealed Bidding (JAN 1986).
10.	52.215-26	Integrity of Unit Prices (APR 1987).
11.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
12.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984) Alternate I (APR 1984).
13.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986).

No.	FAR clause no.	Title and date
14.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984).
15.	52.222-20	Walsh-Healey Public Contracts Act (APR 1984) Equal Opportunity (APR 1984).
16.	52.222-26	Equal Opportunity (APR 1984).
17.	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
18.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
19.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984).
20.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
22.	52.225-3	Buy American Act—Supplies (AUG 1988).
23.	52.227-1	Authorization and Consent (APR 1984).
24.	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
25.	52.227-3	Patent Indemnity (APR 1984).
26.	52.229-3	Federal, State, and Local Taxes (APR 1984).
27.	52.229-5	Taxes—Contracts Performed in U.S. Possessions or Puerto Rico (APR 1984).
28.	52.232-1	Payments (APR 1984).
29.	52.232-8	Discounts for Prompt Payment (JUL 1985).
30.	52.232-9	Limitation on Withholding of Payments (APR 1984).
31.	52.232-11	Extras (APR 1984).
32.	52.232-17	Interest (APR 1984).
33.	52.232-23	Assignment of Claims (JAN 1986).
34.	52.232-25	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
35.	52.233-1	Disputes (APR 1984).
36.	52.233-3	Protest After Award (JUN 1985).
37.	52.243-1	Changes-Fixed-Price (AUG 1987).
38.	52.244-1	Subcontracts (Fixed-Price Contracts) (Over $500,000) (JAN 1986).
39.	52.245-2	Government Property (Fixed-Price Contracts) (APR 1984).
40.	52.246-2	Inspection of Supplies-Fixed Price (JUL 1985).
41.	52.246-16	Responsibility for Supplies (APR 1984).
42.	52.249-2	Termination for Convenience of the Government (Fixed-Price) (APR 1984).
43.	52.249-8	Default (Fixed-Price Supply and Service (APR 1984).

II. Department of Health and Human Services Acquisition Regulations (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause no.	Title and date
1.	352.202-1	Definitions (APR 1984).
2.	352.232-9	Withholding of Contracts Payments (APR 1984).
3.	352.270-4	Pricing of Adjustments (APR 1984).
4.	352.270-7	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A COST-PLUS-A-FIXED-FEE CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause no.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984).
2.	52.203-3	Gratuities (APR 1984).
3.	52.203-5	Covenant Against Contingent Fees (APR 1984).
4.	52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1985).
5.	52.203-7	Anti-Kickback Procedures (FEB 1987)
6.	52.215-1	Examination of Records by Comptroller General (APR 1984).
7.	52.215-2	Audit—Negotiation (APR 1988).
8.	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988).
9.	52.215-24	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985).
(The following clause is applicable when contracting with full and open competition.)		
10.	52.215-26	Integrity of Unit Prices (APR 1987).

No.	FAR clause no.	Title and date
		OR
(The following clause is applicable when contracting without full and open competition.)		
10.	52.215-26.....	Integrity of Unit Prices (APR 1987) Alternate I (APR 1987).
(If the contractor proposed facilities capital cost of money in its offer, the following clause is applicable.)		
11.	52.215-30.....	Facilities Capital Cost of Money (SEP 1987).
		OR
11.	52.215-31.....	Waiver of Facilities Capital Cost of Money (SEP 1987).
12.	52.215-33.....	Order of Precedence (JAN 1986).
13.	52.216-7.....	Allowance Cost and Payment (APR 1984).
14.	52.216-8.....	Fixed Fee (APR 1984).
15.	52.219-8.....	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
16.	52.219-9.....	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984).
17.	52.219-13.....	Utilization of Women-Owned Small Businesses (AUG 1986).
18.	52.220-3.....	Utilization of Labor Surplus Area Concerns (APR 1984).
19.	52.222-20.....	Walsh-Healey Public Contracts Act (APR 1984).
20.	52.222-26.....	Equal Opportunity (APR 1984).
21.	52.222-28.....	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984).
22.	52.222-35.....	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
23.	52.222-36.....	Affirmative Action for Handicapped Workers (APR 1984).
24.	52.222-37.....	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988).
25.	52.223-2.....	Clean Air and Water (Over $100,000) (APR 1984).
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
26.	52.225-3.....	Buy American Act—Supplies (AUG 1988).
27.	52.227-1.....	Authorization and Consent (APR 1984).
28.	52.227-2.....	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
29.	52.227-3.....	Patent Indemnity (APR 1984).
30.	52.227-14.....	Rights in Data—General (JUN 1987).
31.	52.232-9.....	Limitation on Withholding of Payments (APR 1984).
(The following clause is not applicable if the contract is awarded to a state or local government or instrumentality.)		
32.	52.232-17.....	Interest (APR 1984).
33.	52.232-20.....	Limitation of Cost (APR 1984).
		OR
(The following clause is applicable if the contract is incrementally funded.)		
33.	52.232-22.....	Limitation of Funds (APR 1984).
34.	52.232-23.....	Assignment of Claims (JAN 1986).
35.	52.232-25.....	Prompt Payment (FEB 1988) Alternate II (FEB 1988).
36.	52.233-1.....	Disputes (APR 1984).
37.	52.233-3.....	Protest After Award (JUN 1985) Alternate I (JUN 1985).
38.	52.242-1.....	Notice of Intent to Disallow Costs (APR 1984).
39.	52.243-2.....	Changes—Cost-Reimbursement (AUG 1987). Alternate II (APR 1984).
40.	52.244-2.....	Subcontracts (Cost-Reimbursement and Letter Contracts) (JUL 1985).
41.	52.244-5.....	Competition in Subcontracting (APR 1984).
42.	52.245-5.....	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986).
(If the primary objective of the contract is the furnishing of services or supplies that involve the furnishing of services, the following clause is applicable.)		
43.	52.246-5.....	Inspection of Services—Cost-Reimbursement (APR 1984).
		OR
(If the primary objective of the contract is the delivery of end items other than designs, drawings, or reports, the following clause is applicable.)		
43.	52.246-8.....	Inspection of Research and Development-Cost-Reimbursement (APR 1984).
		OR
43.	52.246-9.....	Inspection of Research and Development (Short Form (APR 1984).
44.	52.246-23.....	Limitation of Liability (APR 1984).
45.	52.249-6.....	Termination (Cost-Reimbursement) (May 1986).
46.	52.249-14.....	Excusable Delays (APR 1984).

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause no.	Title and date
1.	352.202-1	Definitions (APR 1984) Alternate I (APR 1984).
2.	352.228-70	Required Insurance (APR 1984).
3.	352.232-9	Withholding of Contract Payments (APR 1984).
4.	352.233-70	Litigation and Claims (APR. 1984).
5.	352.242-71	Final Decisions on Audit Findings (APR 1984).
6.	352.270-5	Key Personnel (APR 1984).
7.	352.270-7	Paperwork Reduction Act (APR 1984).

GENERAL CLAUSES FOR A COST-REIMBURSEMENT CONTRACT WITH NONPROFIT INSTITUTIONS OTHER THAN EDUCATIONAL INSTITUTIONS

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) 48 CFR Chapter 1) Clauses

No.	FAR clause no.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984)
2.	52.203-3	Gratuities (APR 1984)
3.	52.203-5	Covenant Against Contingent Fees (APR 1984)
4.	52.203-7	Anti-Kickback Procedures (FEB 1987)
5.	52.215-1	Examination of Records by Comptroller General (APR 1984)
6.	52.215-2	Audit—Negotiation (APR 1984)
7.	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988)
8.	52.215-24	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985)
(The following clause is applicable when contracting with full and open competition.)		
9.	52.215-26	Integrity of Unit Prices (APR 1987)
		OR
(The following clause is applicable when contracting without full and open competition.)		
9.	52.215-26	Integrity of Unit Prices (APR 1987) Alternate I (APR 1987)
10.	52.215-33	Order of Precedence (JAN 1986)
11.	52.216-11	Cost Contract—No Fee (APR 1984)
12.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985)
13.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984)
14.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986)
15.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984)
16.	52.222-20	Walsh-Healey Public Contracts Act (APR 1984)
17.	52.222-26	Equal Opportunity (APR 1984)
18.	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984)
19.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984)
20.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984)
21.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988)
22.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984)
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
23.	52.225-3	Buy American Act—Supplies (AUG 1988)
24.	52.227-1	Authorization and Consent (APR 1984)
		OR
(If this contract is for research and development, or involves both research and development work and supplies or services, and the research and development work is the primary purpose of the contract, the following clause is applicable.)		
24.	52.227-1	Authorization and Consent (APR 1984) Alternate I (APR 1984)
25.	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984)
26.	52.227-11	Patent Rights—Retention by the Contractor (Short Form) (APR 1984) Note: In accordance with FAR 27.303(a)(2), paragraph (f) is modified to include the requirements in FAR 27.303(a)(2) (i) through (v). The frequency of reporting in (i) is annual.
27.	52.227-14	Rights in Data—General (JUN 1987)
28.	52.232-9	Limitation on Withholding of Payments (APR 1984)
29.	52.232-20	Limitation of Cost (APR 1984)
		OR
(The following clause is applicable if the contract is incrementally funded.)		
29.	52.232-22	Limitation of Funds (APR 1984)

No.	FAR clause no.	Title and date
30.	52.232-23.....	Assigment of Claims (JAN 1986)
31.	52.232-25.....	Prompt Payment (FEB 1988) Alternate II (FEB 1988)
32.	52.233-1.....	Disputes (APR 1984)
33.	52.233-3.....	Protest After Award (JUN 1985) Aternate I (JUN 1985)
34.	52.242-1.....	Notice of Intent to Disallow Costs (APR 1984)
35.	52.243-2.....	Changes—Cost-Reimbursement (Aug 1987) Atlernate V (APR 1984)
36.	52.244-2.....	Subcontracts (Cost-Reimbursement and Letter Contracts) (JUL 1985)
37.	52.244-5.....	Competition in Subcontracting (APR 1984)
38.	52.245-5.....	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986) Alternate I (JUL 1985)
(If the primary objective of the contract is the delivery of end items other than designs, drawings, or reports, the following clause is applicable.)		
39.	52.246-8.....	Inspection of Research and Development-Cost-Reimbursement (APR 1984)
		OR
39.	52.246-9.....	Inspection of Research and Development (Short Form) (APR 1984)
40.	52.246-23.....	Limitation of Liability (APR 1984)
41.	52.249-5.....	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (APR 1984)

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1.....	Definitions (APR 1984) Alternate I (APR 1984)
2.	352.216-7.....	Allowable Cost and Payment (APR 1984)
(The following clause is applicable when fixed rates subject to carryforward are used.)		
3.	352.216-70....	Negotiated Overhead Rates (APR 1984)
4.	352.228-70....	Required Insurance (APR 1984)
5.	352.232-9.....	Withholding of Contract Payments (APR 1984)
6.	352.233-70....	Litigation and Claims (APR 1984)
7.	352.242-71....	Final Decisions on Audit Findings (APR 1984)
8.	352.249-14....	Excusable Delays (APR 1984)
9.	352.270-5.....	Key Personnel (APR 1984)
10.	352.270-7.....	Paperwork Reduction Act (APR 1984)

GENERAL CLAUSES FOR A COST-REIMBURSEMENT CONTRACT WITH EDUCATIONAL INSTITUTIONS

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were griven in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1.....	Officials Not to Benefit (APR 1984)
2.	52.203-3.....	Gratuities (APR 1984)
3.	52.203-5.....	Covenant Against Contingent Fees (APR 1984)
4.	52.203-7.....	Anti-Kickback Procedures (FEB 1987)
5.	52.215-1.....	Examination of Records by Comptroller General (APR 1984)
6.	52.215-2.....	Audit—Negotiation (APR 1988)
7.	52.215-22.....	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988)
8.	52.215-24.....	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985)
(The following clause is applicable when contracting with full and open competition.)		
9.	52.215-26.....	Integrity of Unit Prices (APR 1987)
		OR
(The following clause is applicable when contracting with full and open competition.)		
9.	52.215-26.....	Integrity of Unit Prices (APR 1987) Alternate I (APR 1987)
10.	52.215-33.....	Order of Precedence (JAN 1986)
[Paragraph (a) of the following clause is modified to delete the words "Subpart 31.2" and to add the words "Subpart 31.3".]		
11.	52.216-7.....	Allowable Cost and Payment (APR 1984)

No.	FAR clause No.	Title and date
12.	52.216-11.....	Cost Contract—No Fee (APR 1984)
(The following clause is applicable when predetermined rates are used.)		
13.	52.216-15.....	Predetermined Indirect Cost Rates (APR 1984)
14.	52.219-8.....	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985)
15.	52.219-9.....	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984)
16.	52.219-13.....	Utilization of Women-Owned Small Businesses (AUG 1984)
17.	52.220-3.....	Utilization of Labor Surplus Area Concerns (APR 1984)
18.	52.222-20.....	Walsh-Healey Public Contracts Act (APR 1984)
19.	52.222-26.....	Equal Opportunity (APR 1984)
20.	52.222-28.....	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984)
21.	52.222-35.....	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984)
22.	52.222-36.....	Affirmative Action for Handicapped Workers (APR 1984)
23.	52.222-37.....	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988)
24.	52.223-2.....	Clean Air and Water (Over $100,000) (APR 1984)
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
25.	52.225-3.....	Buy American Act—Supplies (AUG 1988)
26.	52.227-1.....	Authorization and Consent (APR 1984)
		OR
(If this contract is for research and development, or involves both research and development work and supplies or services, and the research and development work is the primary purpose of the contract, the following clause is applicable.)		
26.	52.227-1.....	Authorization and Consent (APR 1984) Alternate I (APR 1984)
27.	52.227-2.....	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984)
28.	52.227-11.....	Patent Rights—Retention by the Contractor (Short Form) (APR 1984) Note: In accordance with FR 27.303(a)(2), paragraph (f) is modified to include the requirements in FAR 27.303(a)(2) (i) through (v). The frequency of reporting in (i) is annual.
29.	52.227-14.....	Rights in Data—General (JUN 1987) Alternate IV (JUN 1987)
30.	52.232-9.....	Limitation on Withholding of Payments (APR 1984)
31.	52.232-20.....	Limitation of Cost (APR 1984)
		OR
(The following clause is applicable if the contract is incrementally funded.)		
31.	52.232-22.....	Limitation of Funds (APR 1984)
32.	52.232-23.....	Assignment of Claims (JAN 1986)
33.	52.232-25.....	Prompt Payment (FEB 1988) Alternate II (FEB 1988)
34.	52.233-1.....	Disputes (APR 1984)
35.	52.233-3.....	Protest After Award (JUN 1985) Alternate I (JUN 1985)
36.	52.242-1.....	Notice of Intent to Disallow Costs (APR 1984)
37.	52.243-2.....	Changes—Cost-Reimbursement (AUG 1987) Alternate V (APR 1984)
38.	52.244-2.....	Subcontracts (Cost-Reimbursement and Letter Contracts) (JUL 1985)
39.	52.244-5.....	Competition in Subcontracting (APR 1984)
40.	52.245-5.....	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986) Alternate I (JUL 1985)
(If the primary objective of the contract is the delivery of end items other than designs, drawings, or reports, the following clause is applicable.)		
41.	52.246-8.....	Inspection of Research and Development-Cost-Reimbursement (APR 1984)
		OR
41.	52.246-9.....	Inspection of Research and Development (Short Form) (APR 1984)
42.	52.246-23.....	Limitation of Liability (APR 1984)
43.	52.249-5.....	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions) (APR 1984)

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1.....	Definitions (APR 1984) Alternate I (APR 1984)
		(The following clause is applicable when fixed rates subject to carryforward are used):
2.	352.216-70....	Negotiated Overhead Rates (APR 1984)
3.	352.228-70....	Required Insurance (APR 1984)
4.	352.232-9.....	Withholding of Contract Payments (APR 1984)
5.	352.233-70....	Litigation and Claims (APR 1984)
6.	352.242-71....	Final Decisions on Audit Findings (APR 1984)
7.	352.249-14....	Excusable Delays (APR 1984)
8.	352.270-5.....	Key Personnel (APR 1984)
9.	352-270-7.....	Paperwork Reduction Act (APR 1984)

GENERAL CLAUSES FOR A TIME-AND-MATERIALS OR A LABOR-HOUR CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984)
2.	52.203-3	Gratuities (APR 1984)
3.	52.203-5	Covenant Against Contingent Fees (APR 1984)
4.	52.203-7	Anti-Kickback Procedures (FEB 1987)
5.	52.215-1	Examination of Records by Comptroller General (APR 1984)
6.	52.215-2	Audit—Negotiation (APR 1988)
7.	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1988)
8.	52.215-24	Subcontractor Cost or Pricing Data (Over $100,000) (APR 1985)
(The following clause is applicable when contracting with full and open competition.)		
9.	52.215-26	Integrity of Unit Prices (APR 1987) Alternate I (APR 1987)
		OR
(The following clause is applicable when contracting without full and open competition.)		
9.	52.215-26	Integrity of Unit Prices (APR 1987)
(If the contractor proposed facilities capital cost of money in its offer, the following clause is applicable.)		
10.	52.215-30	Facilities Capital Cost of Money (SEP 1987)
		OR
10.	52.215-31	Waiver of Facilities Capital Cost of Money (SEP 1987)
11.	52.215-33	Order of Precedence (JAN 1986)
12.	52.216-7	Allowable Cost and Payment (APR 1984)
13.	52.219-8	Utilization of Small Business Concerns and Small Disadvanataged Business Concerns (JUN 1985)
14.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984)
15.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986)
16.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984)
17.	52.222-20	Walsh-Healey Public Contracts Act (APR 1984)
18.	52.222-26	Equal Opportunity (APR 1984)
19.	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984)
20.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984)
21.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984)
22.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988)
23.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984)
(The following clause is applicable except for acquisitions made pursuant to the Trade Agreements Act of 1979.)		
24.	52.225-3	Buy American Act—Supplies (AUG 1988)
25.	52.227-1	Authorization and Consent (APR 1984)
26.	52.227-14	Rights in Data—General (JUN 1987)
27.	52.232-7	Payments Under Time-and-Materials and Labor-Hour Contracts (APR 1984)
28.	52.232-9	Limitation on Withholding of Payments (APR 1984)
29.	52.232-17	Interest (APR 1984)
30.	52.232-23	Assignment of Claims (JAN 1986)
31.	52.232-25	Prompt Payment (FEB 1988) Alternate II (FEB 1988)
32.	52.233-1	Disputes (APR 1984)
33.	52.233-3	Protest After Award (JUN 1985) Alternate I (JUN 1985)
34.	52.242-1	Notice of Intent to Disallow Costs (APR 1984)
35.	52.243-3	Changes—Time-and-Materials or Labor-Hours (AUG 1987)
36.	52.244-3	Subcontracts (Time-and-Material and Labor-Hours Contracts (APR 1985)
37.	52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986)
38.	52.246-6	Inspection—Time-and-Material and Labor-Hour (JAN 1986)
39.	52.249-6	Termination (Cost-Reimbursement) (MAY 1986) Alternate IV (APR 1984)
40.	52.249-14	Excusable Delays (APR 1984)

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1	Definitions (APR 1984) Alternate I (APR 1984)
2.	352.228-70	Required Insurance (APR 1984)
3.	352.232-9	Withholding of Contract Payments (APR 1984)
4.	352.233-70	Litigation and Claims (APR 1984)
5.	352.242-71	Final Decisions on Audit Findings (APR 1984)

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
6.	352.270-5	Key Personnel (APR 1984)
7.	352.270-7	Paperwork Reduction Act (APR 1984)

GENERAL CLAUSES FOR A SEALED BID CONSTRUCTION CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) Clauses

No.	FAR clause No.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984)
2.	52.203-3	Gratuities (APR 1984)
3.	52.203-5	Covenant Against Contingent Fees (APR 1984)
4.	52.203-7	Anti-Kickback Procedures (FEB 1987)
5.	52.212-12	Suspension of Work (APR 1984)
6.	52.214-26	Audit—Sealed Bidding (Over $100,000) (APR 1985)
7.	52.214-27	Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding (Over $100,000) (APR 1988)
8.	52.214-28	Subcontractor Cost or Pricing Data—Modifications—Sealed Bidding (Over $100,000) (APR 1985)
9.	52.214-29	Order of Precedence—Sealed Bidding (JAN 1986)
10.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985)
11.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $1,000,000) (APR 1984) Alternate I (APR 1984)
12.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986)
13.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984)
14.	52.222-3	Convict Labor (APR 1984)
15.	52.222-4	Contract Work Hours and Safety Standards Act—Overtime Compensation (MAR 1986)
16.	52.222-6	Davis-Bacon Act (FEB 1988)
17.	52.222-7	Withholding of Funds (FEB 1988)
18.	52.222-8	Payrolls and Basic Records (FEB 1988)
19.	52.222-9	Apprentices and Trainees (FEB 1988)
20.	52.222-10	Compliance With Copeland Act Requirements (FEB 1988)
21.	52.222-11	Subcontracts (Labor Standards) (FEB 1988)
22.	52.222-12	Contract Termination—Debarment (FEB 1988)
23.	52.222-13	Compliance With Davis-Bacon and Related Act Regulations (FEB 1988)
24.	52.222-14	Disputes Concerning Labor Standards (FEB 1988)
25.	52.222-15	Certification of Eligibility (FEB 1988)
26.	52.222-26	Equal Opportunity (APR 1984)
27.	52.222-27	Affirmative Action Compliance Requirements for Construction (APR 1984)
28.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984)
29.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984)
30.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988)
31.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984)
32.	52.225-5	Buy American Act—Construction Materials (APR 1984)
33.	52.225-13	Restrictions on Federal Public Works Projects (APR 1988)
34.	52.227-1	Authorization and Consent (APR 1984)
35.	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984)
36.	52.227-4	Patent Indemnity—Construction Contracts (APR 1984)
37.	52.228-1	Bid Guarantee (APR 1984)
38.	52.228-2	Additional Bond Security (APR 1984)
39.	52.228-5	Insurance—Work on a Government Installation (APR 1984)
40.	52.232-5	Payments Under Fixed-Price Construction Contracts (AUG 1987)
41.	52.232-17	Interest (APR 1984)
42.	42.232-23	Assignment of Claims (JAN 1986)
43.	52.232-25	Prompt Payment—Alternate I (FEB 1988)
44.	52.233-1	Disputes (APR 1984)
45.	52.233-3	Protest After Award (JUN 1985)
46.	52.236-1	Performance of Work by the Contractor (Over $1,000,000) (APR 1984)
47.	52.236-2	Differing Site Conditions (APR 1984)
48.	52.236-3	Site Investigations and Conditions Affecting the Work (APR 1984)
49.	52.236-5	Material and Workmanship (APR 1984)
50.	52.236-6	Superintendence by the Contractor (APR 1984)
51.	52.236-7	Permits and Responsibilities (APR 1984)
52.	52.236-8	Other Contracts (APR 1984)
53.	52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (APR 1984)
54.	52.236-10	Operations and Storage Areas (APR 1984)
55.	52.236-11	Use and Possession Prior to Completion (APR 1984)

No.	FAR clause No.	Title and date
56.	52.236-12	Cleaning Up (APR 1984)
57.	52.236-13	Accident Prevention (APR 1984)
58.	52.236-14	Availability and Use of Utility Services (APR 1984)
59.	52.236-15	Schedules for Construction Contracts (APR 1984)
60.	52.236-17	Layout of Work (APR 1984)
61.	52.236-21	Specifications and Drawings for Construction (APR 1984) Alternate I (APR 1984)
62.	52.243-4	Changes (AUG 1987)
63.	52.244-1	Subcontracts (Fixed-Price Contracts) Over $500,000) (JAN 1986)
64.	52.245-2	Government Property (Fixed Price Contracts) (APR 1984)
65.	52.246-12	Inspection of Construction (JUL 1986)
66.	52.248-3	Value Engineering—Construction ($100,000 or more) (APR 1984)
67.	52.249-2	Termination for Convenience of the Government (Fixed-Price) (APR 1984) Alternate I (APR 1984)
68.	52.249-10	Default (Fixed-Price Construction) (APR 1984)

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202-1	Definitions (APR 1984) (Paragraph (e) of the clause is deleted.)
2.	352.232-9	Withholding of Contract Payments (APR 1984)
3.	352.270-4	Pricing of Adjustments (APR 1984)
4.	352.270-7	Paperwork Reduction Act (APR 1984)

GENERAL CLAUSES FOR A NEGOTIATED FIXED-PRICE ARCHITECT-ENGINEER CONTRACT

Clauses Incorporated by Reference

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. Federal Acquisition Regulation (FAR) (48 CFR Chapter 1)

No.	Far clause No.	Title and date
1.	52.203-1	Officials Not to Benefit (APR 1984)
2.	52.203-3	Gratuities (APR 1984)
3.	52.203-5	Covenant Against Contingent Fees (APR 1984)
4.	52.203-7	Anti-Kickback Procedures (FEB 1987)
5.	52.212-12	Suspension of Work (APR 1984)
6.	52.215-1	Examination of Records by Comptroller General (APR 1984)
7.	52.215-2	Audit—Negotiation (APR 1988)
8.	52.215-22	Price Reduction for Defective Cost or Pricing Data (Over $100,000) (APR 1985)
9.	52.215-24	Subcontractor Cost or Pricing Data (Over of Precedence (JAN 1986)
10.	52.215-33	Order of Precedence (JAN 1986)
11.	52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985)
12.	52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan (Over $500,000) (APR 1984)
13.	52.219-13	Utilization of Women-Owned Small Businesses (AUG 1986)
14.	52.220-3	Utilization of Labor Surplus Area Concerns (APR 1984)
15.	52.222-3	Convict Labor (APR 1984)
16.	52.222-26	Equal Opportunity (APR 1984)
17.	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts ($1,000,000 or more) (APR 1984)
18.	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984)
19.	52.222-36	Affirmative Action for Handicapped Workers (APR 1984)
20.	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988)
21.	52.223-2	Clean Air and Water (Over $100,000) (APR 1984)
22.	52.227-1	Authorization and Consent (APR 1984)
23.	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984)
24.	52.227-17	Rights in Data—Special Works (JUN 1987)
25.	52.232-10	Payments Under Fixed-Price Architect-Engineer Contracts (AUG 1987)
26.	52.232-17	Interest (APR 1984)
27.	52.232-23	Assignemtn of Claims (Jan 1986)
28.	52.232-25	Prompt Payment—Alternate I (FEB 1988)
29.	52.233-1	Disputes (APR 1984)
30.	52.233-3	Protest After Award (JUN 1985) Alternate I (JUN 1985)
31.	52.236-22	Design With Funding Limitations (APR 1984)

No.	Far clause No.	Title and date
32.	52.236–23.....	Responsibility of the Architect-Engineer Contractor (APR 1984)
33.	52.236–24.....	Work Oversight in Architect-Engineer Contracts (APR 1984)
34.	52.236–25.....	Requirements for Registration of Designers (APR 1984)
35.	52.243–1.....	Changes—Fixed-Price (AUG 1987) Alternate III (APR 1984)
36.	52.244–4.....	Subcontractors and Outside Associates and Consultants (APR 1984)
37.	52.249–7.....	Termination (Fixed-Price Architect-Engineer) (APR 1984)

II. Department of Health and Human Services Acquisition Regulation (HHSAR) (48 CFR Chapter 3) Clauses

No.	HHSAR clause No.	Title and date
1.	352.202–1.....	Definitions (APR 1984) (Paragraph (e) of the clause is deleted.).
2.	352.232–9.....	Withholding of Contract Payments (APR 1984).
3.	352.270–4.....	Pricing of Adjustments (APR 1984)
4.	352.270–7.....	Paperwork Reduction Act (APR 1984)

[FR Doc. 88–20599 Filed 9–14–88; 8:45 am]
BILLING CODE 4150–14–M

Notices

Federal Register
Vol. 53, No. 179
Thursday, September 15, 1988

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States, to be held on Friday, September 30, 1988 at 1:30 p.m. The meeting will be held at the Administrative Conference, 2120 L Street NW., Suite 500, Washington DC.

The Committee will meet to discuss a study by Professor Timothy S. Jost of Ohio State, on Administrative Law Issues Involving the Medicare Utilization and Quality Control Peer Review Organization (PRO) Program.

For further information concerning this meeting, contact Deborah Ross, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC (Telephone: 202–254–7065.)

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Jeffrey S. Lubbers,
Research Director.
September 12, 1988.

[FR Doc. 88–21048 Filed 9–14–88; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Environmental Impact Statement for Proposed Management Practices Within the Trail Creek Area, Wisdom Ranger District, Beaverhead National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare and Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement to analyze and disclose the environmental impacts of implementing forest management activities in the Trail Creek area of the Wisdom Ranger District, Beaverhead National Forest, Beaverhead County, Montana. The agency invites written comment and suggestions on the scope of the analysis and potential management opportunities in the analysis area. In addition, the agency gives notice of the full environmental analysis and decision making process that will occur in the analysis so that interested and affected parties are aware how they may participate and contribute to the final decision.

DATE: Comments concerning potential management opportunities must be received by October 15, 1988.

ADDRESS: Submit comments and suggestions on the potential management opportunities to the District Ranger, Wisdom Ranger District, Box 238, Wisdom, MT 59761.

FOR FURTHER INFORMATION CONTACT: Any additional comments on management opportunities and questions about the proposed activities and the environmental impact statement should also be sent to the Wisdom District Ranger.

SUPPLEMENTARY INFORMATION: The Forest Service proposes to implement a wide range of forest management practices in the Trail Creek area over the period from 1989 to 1995. The area under consideration covers approximately 40,000 acres and begins near the Big Hole National Battlefield, 10 miles west of Wisdom, MT and extends westward along both sides of State Highway 43 and into the Trail Creek drainage for approximately 13 miles, ending on the Continental Divide.

The potential management practices could include trail construction and reconstruction, trailhead construction and improvement, watershed and fisheries habitat improvement, construction of interpretive facilities, timber harvest and road construction and reconstruction and access management. The Forest Service will consider a range of alternatives from deferring activities to implementing the full range of management practices. The management practices being considered are practices projected for implementation by the Beaverhead Forest Plan, approved April 9, 1986, as well as those which may be proposed during the public involvement process.

Public participation will be important during the analysis. The first point of public participation is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identifying additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects, and connected actions).
6. Determining potential cooperating agencies and task assignments.

Additional opportunities for public participation in the scoping process will be available through attendance at public reviews to be conducted in Butte, MT on September 23, 1988; Dillon, MT, on September 26, 1988; and Wisdom, MT on September 29, 1988. Draft alternatives will be released for public review and comment late in October and the Draft Environmental Impact Statement in November. The Montana Department of Fish, Wildlife, and Parks and the State Department of Health and Environmental Sciences; Water Quality Bureau will be consulted and participate in the analysis.

The draft environmental impact statement (DEIS) will be filed with the Environmental Protection Agency (EPA) and the EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the draft environmental impact statement will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of the Trail Creek area participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978) and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. Wisconsin Heritages, Inc., v. Harris, 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to insure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final EIS is scheduled to be completed by March 1989.

In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable law, regulations, and policies in making a decision regarding this proposal.

The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to review under applicable Forest Service regulations.

Dennis Havig, District Ranger of the Wisdom Ranger District, Beaverhead National Forest, is the Responsible Official.

Date: August 30, 1988.

Ed Levert,

Acting District Ranger, Wisdom Ranger District, Beaverhead National.

[FR Doc. 88-20972 Filed 9-14-88; 8:45 am]

BILLING CODE 3410-11-M

South Twin Drainage Lode Mining and Development Proposal; Toiyabe National Forest; Nye County, NV; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement for a proposal to conduct underground lode mining and development and access requirements within the South Twin Drainage of the Arc Dome recommended wilderness area on the Tonopah Ranger District.

A range of alternatives for this proposal will be considered. The alternatives will include considerations for: helicopter access, roaded access, low impact access and stock access.

Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Development of alternatives to the proposed action.
5. Determination of potential cooperating agencies and assignment of responsibilities.

R.M. "JIM" Nelson, Forest Supervisor, Toiyabe National Forest, Sparks, Nevada, is the responsible federal official.

The analysis is expected to take about ten months. The draft environmental impact statement should be available for public review by June 1989.

Written comments and suggestions concerning the analysis should be sent to Forest Supervisor, Toiyabe National Forest, 1200 Franklin Way, Sparks, NV 89431, ATTEN: SOUTH TWIN EIS, by Oct. 30, 1988. Based upon these comments, the Forest Supervisor may hold a public meeting at his office at the Supervisors' Headquarters, Toiyabe National Forest, Nevada.

Questions about the proposed action and environmental impact statement should be directed to Maureen Joplin, Forest Geologist, Toiyabe National Forest, phone (702) 331-6444.

Date: September 6, 1988.

R.M. "Jim" Nelson,

Forest Supervisor.

[FR Doc. 88-20970 Filed 9-14-88; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Current Trade Report.

Form Number: B-310.

Type of Request: Extension.

Burden: 5,332 hours.

Avg. Hours Per Response: 9.5 minutes.

Needs and Uses: This survey provides the only continuous measure of monthly wholesale sales, end-of-month inventories, methods of inventory valuation, and stock/sales ratios. The Bureau of Economic Analysis uses the information on methods of inventory valuation and changes in the valuation methods to improve the inventory valuation adjustments applied to estimates of the GNP.

Affected Public: Businesses or other for-profit Small business or organizations.

Frequency: Monthly.

Respondent's Obligation: voluntary.

OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Officer Building, Washington, DC 20503.

Dated: September 8, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-20992 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the

provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Interviewer Record/Follow-up Record-Monthly Noncertainty Letters.

Form Number: B-645 (87), B-646 (87).

Type of Request: Extension.

Burden: 4,973 hours.

Avg Hours Per Response: 10 minutes.

Needs and Uses: The area sample component collects data from non-employer and newly opened retail and services businesses whose Employer Identification numbers have not yet been subjected to the list sample. Estimates published in the monthly retail trade and the services annual survey reports include data derived through this component.

Affected Public: Businesses or other for-profit Small business or organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC. 20230.

Written comments and recommendations for the proposal information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC. 20503.

Dated: September 8, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-20993 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Direct Transactions of U.S. Reporter With Foreign Affiliate.

Form Number: Agency—BE-577; OMB—0608-004.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 9,200 respondents; 4 responses per respondent per year; 36,800 reporting hours.

Average Hours Per Response: 1 hour.

Needs and Uses: The survey collects data on transactions and positions between U.S. parent companies and their foreign affiliates. Universe estimates are developed from the reported sample data. The data are needed for compiling the U.S. balance of payments accounts, the international investment position of the U.S., and the national income and product accounts. They are also needed to measure the size of U.S. direct investment abroad, monitor changes in such investments, assess its impact on the U.S. economy, and based upon this assessment, make informed policy decisions regarding U.S. direct investment abroad.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: John Griffen, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 8, 1988.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 88-20989 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Followup Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad.

Form Number: Agency-BE-133B; OMB-0608-0020.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,100 respondents; 2,970 reporting hours.

Average Hours Per Response: 2.7 hours.

Needs and Uses: The survey collects data on projected expenditures for property, plant, and equipment of majority-owned foreign affiliates of U.S. companies. Universe estimates are developed from the reported sample data. The data are needed to: (1) Monitor current and projected developments in international investment; and (2) assess the potential impact of proposed or newly implemented U.S. or foreign government policies affecting international investment, and, based upon this assessment, make informed policy decisions regarding U.S. direct investment abroad.

Affected Public: Businesses or other for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: John Griffen, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th Street and Constitution Avenue NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 8, 1988.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 88-20990 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad.

Form Number: Agency—BE-133C; OMB-0608-0024.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,100 respondents; 2,970 reporting hours.

Average Hours Per Response: 2.7 hours.

Needs and Uses: The survey collects data on actual and projected expenditures for property, plant, and equipment of majority-owned foreign

affiliates of U.S. companies. Universe estimates are developed from the reported sample data. The data are needed to: (1) Monitor current and projected developments in international investment; and (2) assess the potential impact of proposed or newly implemented U.S. or foreign government policies affecting international investment, and, based upon this assessment, make informed policy decisions regarding U.S. direct investment abroad.

Affected Public: Businesses or other for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: John Griffen, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 8, 1988.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 88-20991 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business Development Agency.

Title: Business development Report (BDR).

Form Number: Agency—NA; OMB—0640-0005.

Type of Request: Revision of a currently approved collection.

Burden: 100 respondents; 14,600 reporting hours.

Average Hours Per Response: .75 hours or 45 minutes.

Needs and Uses: The BDR identifies minority business clients receiving MBDA-sponsored management and technical assistance and the kind of assistance each receives. MBDA needs this information for program evaluation, program planning and evaluation.

Affected Public: Individuals or households, state or local governments, businesses or other for-profit institutions, non-profit institutions, and small businesses or organizations.

Frequency: Quarterly.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: John Griffen, 394-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, 202/377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: September 8, 1988.

Edward Michals,

Department Clearance Officers, Office of Management and Organization.

[FR Doc. 88-20988 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for "emergency" clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (formerly National Bureau of Standards).

Title: State Technology Extension Service Study.

Form Number: NIST-1248; OMB—N/A.

Type of Request: New Collection—"Emergency Clearance Requested"—OMB clearance requested 10 days after receipt of the information collection for review.

Burden: 500 respondetns; 1,000 reporting hours.

Average Hours Per Response: 2 Hours.

Needs and Uses: The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-148), requires the Secretary of Commerce to conduct a nationwide study of State technology extension services and, within 120 days of the Act's implementation, to report findings and recommendations to Congress on an appropriate Federal role in encouraging such programs. The Act requires that the study include:

—A thorough description of each State program, including its duration, annual budget, and the number and types of businesses it has aided.

—A description of any anticipated expansion of each State program and its associated costs;

—An evaluation of the success of the programs in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;

—An assessment of the degree to which State programs make use of Federal programs, including the Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

—A survey of what additional Federal information and technical assistance the programs could utilize; and

—An assessment of how the programs could be more effective agents for the transfer of Federal scientific and technical information, including the results and application of Federal and federally funded research.

Affected Public: State funded economic development/technical assistance organizations.

Frequency: One-time study.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395-3785.

Copies of the documentation sent to OMB supporting this proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: September 7, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

BILLING CODE 3510-13-M

NIST-1248
(REV. 8-88)
OMB NUMBER _____
APPROVAL EXPIRES _____

U.S. DEPARTMENT OF COMMERCE
NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

STATE TECHNOLOGY EXTENSION SERVICES STUDY

PUBLIC REPORTING BURDEN FOR THIS COLLECTION OF INFORMATION IS ESTIMATED TO AVERAGE TWO (2) HOURS PER RESPONSE, INCLUDING THE TIME FOR REVIEWING INSTRUCTIONS, SEARCHING EXISTING DATA SOURCES, GATHERING AND MAINTAINING THE DATA NEEDED, AND COMPLETING AND REVIEWING THE COLLECTION OF INFORMATION. SEND COMMENTS REGARDING THIS BURDEN ESTIMATE OR ANY OTHER ASPECT OF THIS COLLECTION OF INFORMATION, INCLUDING SUGGESTIONS FOR REDUCING THIS BURDEN, TO DAVE EDGERLY, DIRECTOR, OFFICE OF RESEARCH AND TECHNOLOGY APPLICATIONS, NIST, ADMINISTRATION BUILDING, ROOM A537, GAITHERSBURG, MARYLAND 20899; AND TO THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, D.C. 20503.

QUESTIONNAIRE

FOR A STUDY OF

CURRENT STATE TECHNOLOGY EXTENSION PROGRAMS

PROGRAM MANAGER'S VERSION

Congress and the Administration have called upon the National Institute of Standards and Technology, formerly the National Bureau of Standards, to carry out a program of technology development and transfer in collaboration with industry, universities, other Federal agencies, and with State and local government. Among the National Institute of Standards and Technology's new responsibilities outlined in the Technology Competitiveness Act portion of the Trade Bill, is a Study of Current State Technology Extension Programs. The purpose of the Study is to provide an understanding of what each State is doing to promote technological innovation and job creation.

This questionnaire is designed for use by managers of a technology extension program. A separate, summary questionnaire, has been designed for use by State coordinators who may be responsible for a variety of programs in their State.

The questionnaire for this portion of the Study is divided into two parts:

1. Background Information
2. Program Orientation

Part 1 contains 2 sections. Part 1 is designed to collect information on your program and on its relationships with several key Federal programs. The two sections of Part 1 are entitled:

I. General Information
II. Relationships With Federally-Sponsored Programs

Part 2 contains 6 sections. Each section refers to a specific program focus. **Only those sections which are of major importance to your program require a response.** The six sections in Part 2 are concerned with the following extension program activities:

III. Business Assistance
IV. Incubators
V. Research Parks
VI Seed Capital
VII. Technology Assistance
VIII Technology/Research Centers

ELECTRONIC FORM

PART 1: BACKGROUND INFORMATION

SECTION I: GENERAL INFORMATION

1. Organization Name: _____
2. Administered by: _____
3. Address: a) _____
   b) _____
   c) _____
4. City: _____ 5. State: _____
6. Zip Code _____ 7. Date Established: _____
8. Director: _____
9. Title: _____
10. Telephone: _____
11. Principal Contact: _____
12. Title: _____
13. Telephone: _____
14. Telecopier: _____
15. Number of staff (full-time equivalent) employed (as of June 30, 1988):
    a) Professional (Technical): _____
    b) Professional (Business): _____
    c) Support Staff: _____
16. Organizational Objectives (50 words or less):

17. **Financial Data:** Estimate the total funds (including overhead and any other operating costs) received or anticipated (in thousands of $) by your organization by fiscal year from each of the sources listed below. Indicate when your fiscal year begins (_____).

Source of Funds	Funds (thousands of $)			
	1986	1987	1988	1989(est)
a) Federal Government				
b) State Government				
c) Local Government				
d) University				
e) Industry				
f) All Other				
TOTAL				

18. **Public Awareness:** Below is a list of strategies for increasing the public's awareness of how your program could benefit them. Indicate the importance of each strategy by showing how you would allocate $100 of program funds among them.

Strategies	How would you allocate $100?
a) Advertising (e.g., journals, radio, trade associations, etc.)	_____
b) Direct solicitation	_____
c) Field agents	_____
d) Networking (e.g., seminars, workshops, etc.)	_____
e) Other (_____ _____)	_____

Please use the following definitions in answering question 19.

Business Assistance: Business assistance focuses on providing general business management information such as personnel, accounting and legal advice.
Incubators: Incubator facilities provide office and lab space for start-up companies at below-market rates. Shared support services such as clerical, reception and data processing are often made available.
Research Parks: Research parks are planned groupings of technology companies that encourage university/private relationships.
Seed Capital: Money is provided for projects that are at an early stage of development or that offer job creation potential but may not have the return on investment expected by commercial venture capitalists.
Technology Assistance: Technology assistance focuses on providing specialized services such as technical information, invention evaluation and technical counseling. Technology assistance includes both information exchange and active out-reach programs to provide access to newly-created technologies and to promote innovative applications of established technologies.
Technology/Research Centers: These centers generally concentrate their studies in a particular field which is usually based on the strengths of the university and/or the major industries in the State.

19. **Program Orientation:** Estimate the percent of staff resources allocated to each functional area during 1988. Estimate the percent of total funds allocated to each functional area during 1987, 1988 and 1989.

Functional Area	Percent of Staff 1988	Percent of Funds		
		1987	1988	1989(est)
a) Business Assistance				
b) Incubators				
c) Research Parks				
d) Seed Capital				
e) Technology Assistance				
f) Technology/Research Centers				
g) Other: _____ _____				
TOTAL	100	100	100	100

SECTION II: RELATIONSHIPS WITH FEDERALLY-SPONSORED PROGRAMS

20 If your organization has used or been associated with a specific program, provide an assessment of how well that program complements your organization's objectives.

Program Name	Have Used Program Y=Yes N=No	If Yes, Frequency of Use 1=Frequent 2=Sometimes 3=Seldom	If Yes, Program Assess. 1=Good 2=Fair 3=Poor
a) Center for Utilization of Federal Technology (Commerce/NTIS)	☐	___	___
b) Commercial Use of Space Program (NASA)	☐	___	___
c) Community Development Block Grants (HUD)	☐	___	___
d) Computer and Information Science and Engineering (NSF)	☐	___	___
e) Cooperative Extension Service (Agriculture)	☐	___	___
f) Energy Extension Service (Energy)	☐	___	___
g) Energy-Related Inventions (Energy and Commerce/NBS)	☐	___	___
h) Federal Laboratory Consortium (All)	☐	___	___
i) Industry/University Cooperative Research Centers (NSF)	☐	___	___

20. (Continued)

Program Name	Have Used Program Y=Yes N=No	If Yes, Frequency of Use 1=Frequent 2=Sometimes 3=Seldom	If Yes, Program Assess. 1=Good 2=Fair 3=Poor
j) Job Training Partnership Act (Labor)	☐	___	___
k) Measurement and Engineering Research Grants (Commerce/NBS)	☐	___	___
l) National Appropriate Technology Assistance Service (Energy)	☐	___	___
m) Office of Productivity, Technology and Innovation (Commerce)	☐	___	___
n) Office of Small and Disadvantaged Business Utilization (All)	☐	___	___
o) Patent and Trademark Office (Commerce)	☐	___	___
p) Program for Mathematics, Science, Computer Learning and Critical Foreign Languages (Education)	☐	___	___
q) Scientific, Technological and Internatiional Affairs (NSF)	☐	___	___
r) SCORE/ACE (SBA)	☐	___	___
s) Small Business Development Center Program (SBA)	☐	___	___
t) Small Business Innovation Research Program (All)	☐	___	___

20 (Continued)

Program Name	Have Used Program Y=Yes N=No	If Yes, Frequency of Use 1=Frequent 2=Sometimes 3=Seldom	If Yes, Program Assess. 1=Good 2=Fair 3=Poor
u) Small Business Investment Companies (SBA)	☐	____	____
v) Technology Utilization Program (NASA)	☐	____	____
w) Trade Adjustment Assistance Centers Program (Commerce/ITA)	☐	____	____
x) Trade Adjustment Assistance Workers (Labor)	☐	____	____
y) University Centers Program (Commerce/EDA)	☐	____	____
Other Federal Programs (Please List)			
aa) _____ _____	☐	____	____
bb) _____ _____	☐	____	____
cc) _____ _____	☐	____	____

21 Below is a list of strategies through which your organization does or could facilitate the transfer of Federal scientific and technical information, including the results and application of Federal and Federally-funded research/technology. Indicate the importance of each strategy by showing how you would allocate $100 of program funds among them.

Strategies	How would you allocate $100?
a) Cooperate actively with Federal agencies in their technology transfer programs	_____
b) Cosponsor model demonstration projects	_____
c) Develop direct channels of communication and cooperation with a national technology transfer coordinating organization	_____
d) Draw on the Federal clearinghouse concept to disseminate information on Federal R&D	_____
e) Maintain a training program at the State and local level focused on Federal technology transfer and cooperation	_____

22 Provide comments and or indicate other ways in which your organization does could promote Federal technology transfer

PART 2: PROGRAM ORIENTATION

SECTION III: BUSINESS ASSISTANCE

Answer questions 23 through 27 if your organization provides business assistance.

23. **Type of Service:** Check the box in **Column 1** if your organization provided that service during 1985, 1986 or 1987. Check the box in **Column 2** if your organization is currently providing that service Check the box in **Column 3** if your organization is either providing that service at an increased level or is planning an expansion in 1989

Type of Service	Column 1 Provided 85, 86, 87	Column 2 Provided 88	Column 3 Expanded 88 or 89
a) Business Forecasting	☐	☐	☐
b) Business Plan Preparation/Evaluation	☐	☐	☐
c) Feasibility Studies	☐	☐	☐
d) Financial Analysis	☐	☐	☐
e) Joint Venture/Partnership Counseling	☐	☐	☐
f) Labor Analysis	☐	☐	☐
g) Management Assistance and Studies	☐	☐	☐
h) Marketing Surveys	☐	☐	☐
i) Site Location Assistance	☐	☐	☐
j) Small Business Consulting	☐	☐	☐

24. Estimate the number of establishments assisted:

a) 1985: _____
b) 1986: _____
c) 1987: _____
d) 1988: _____
e) 1989: _____

25. **Establishment Data:** Estimate the number of establishments assisted by your organization during 1988. Please classify establishments by type (manufacturing versus non-manufacturing) and size. An establishment, as defined by the Census, counts each store, office, or plant with one or more employees as a separate entity. Non-manufacturing establishments are those major industry groups involved in: agriculture, mining, construction, and services (transportation, finance, government enterprises, etc.).

Type of Establishment	Number of Establishments				TOTAL
	Less than 50	Between 50 & 500	More than 500	Don't Know	
Manufacturing					
Non-Manufacturing					
Don't Know					
TOTAL					

26 **Assistance to Individuals:** Estimate the number of individuals assisted (e g , innovators, entrepreneurs, etc.) during 1988: _____.

27 Percentage of establishments assisted during 1988 which required access to·

a) Newly-created technologies _____
b) Established technologies _____

SECTION IV: INCUBATORS

Answer questions 28 through 32 if your organization supports incubators.

28. Provide estimates of the following background statistics:

	Number of Incubators	Number of Establishments	Number of Employees	Number of Graduates
a) 1985:	_____	_____	_____	_____
b) 1986:	_____	_____	_____	_____
c) 1987:	_____	_____	_____	_____
d) 1988:	_____	_____	_____	_____
e) 1989:	_____	_____	_____	_____

29. Percentage of establishments incubated during 1988 which required access to:

a) Newly-created technologies: _____
b) Established technologies: _____

30. Percentage breakdown by type of technology targeted during 1988

a) Aerospace: _____
b) Biotechnology and Life Sciences: _____
c) Earth Sciences: _____
d) Information Technologies: _____
e) Manufacturing Technologies: _____
f) Materials Sciences: _____
g) Other (_____

_____): _____

31 Number of years an establishment spends in an incubator

a) Average: _____
b) Maximum: _____

32. Percentage of establishments graduated between 1985 and 1987 which

a) Are Still in Business _____
b) Are No Longer in Business _____
c) Don't Know _____

SECTION V: RESEARCH PARKS

Answer questions 33 through 35 if your organization supports research parks.

33. Provide estimates for the following background statistics:

	Number of Parks	Percent of Available Space Occupied (Square Feet)
a) 1985:	_____	_____
b) 1986:	_____	_____
c) 1987:	_____	_____
d) 1988:	_____	_____
e) 1989:	_____	_____

34. Provide estimates for the following establishment statistics:

	Number of Establishments	Number of Employees
a) 1985:	_____	_____
b) 1986:	_____	_____
c) 1987:	_____	_____
d) 1988:	_____	_____
e) 1989:	_____	_____

35. Percentage breakdown by type of technology targeted during 1988:

a) Aerospace: _____
b) Biotechnology and Life Sciences: _____
c) Earth Sciences: _____
d) Information Technologies: _____
e) Manufacturing Technologies: _____
f) Materials Sciences: _____
g) Other (_____

_____): _____

SECTION VI: SEED CAPITAL

Answer questions 36 through 41 if your organization provides seed capital.

36. Establishments assisted:

Year	Number of Establish-ments	Public (thousands of $)		Private (thousands of $)
		Pension	Other	
1985				
1986				
1987				
1988				
1989				

37 **Establishment Data:** Estimate the number of establishments assisted by your organization during **1988**. Please classify establishments by type (manufacturing versus non-manufacturing) and size. An establishment, as defined by the Census, counts each store, office, or plant with one or more employees as a separate entity. Non-manufacturing establishments are those major industry groups involved in: agriculture, mining, construction, and services (transportation, finance, government enterprises, etc.).

Type of Establishment	Number of Establishments				TOTAL
	Less than 50	Between 50 & 500	More than 500	Don't Know	
Manufacturing					
Non-Manufacturing					
Don't Know					
TOTAL					

38. Percentage of establishments assisted between 1985 and 1987 which:

a) Are Still in Business: _____
b) Are No Longer in Business: _____
c) Don't Know: _____

39. Percentage of establishments assisted during 1988 which required access to:

a) Newly-created technologies: _____
b) Established technologies: _____

40. Percentage breakdown by type of technology targeted during 1988

a) Aerospace: _____
b) Biotechnology and Life Sciences: _____
c) Earth Sciences: _____
d) Information Technologies. _____
e) Manufacturing Technologies _____
f) Materials Sciences: _____
g) Other (_____
_____): _____

41 Percentage breakdown by type of funds provided during 1988

a) Product/process development _____
b) Product/process testing _____
c) Prototype development _____
d) Product/process commercialization _____
e) Other _____

SECTION VII: TECHNOLOGY ASSISTANCE

Answer questions 42 through 48 if your organization provides technology assistance.

42. **Type of Service:** Check the box in **Column 1** if your organization provided that service during **1985, 1986 or 1987.** Check the box in **Column 2** if your organization is **currently providing** that service. Check the box in **Column 3** if your organization is either providing that service at an increased level or is planning an expansion in 1989.

Type of Service	Column 1 Provided 85, 86, 87	Column 2 Provided 88	Column 3 Expanded 88 or 89
a) Demonstration Projects	☐	☐	☐
b) Joint Venture/Partnership Counseling	☐	☐	☐
c) Networking & Referrals	☐	☐	☐
d) Product Design and/or Evaluation	☐	☐	☐
e) Seminars/Workshops	☐	☐	☐
f) State liaison to Federal Labs	☐	☐	☐
g) Technical Counseling	☐	☐	☐
h) Technical Data Services	☐	☐	☐
i) Technical literature dissemination/review	☐	☐	☐
j) User request and response	☐	☐	☐

43. Estimate the number of establishments assisted:

a) 1985: _____
b) 1986: _____
c) 1987: _____
d) 1988: _____
e) 1989: _____

44. **Establishment Data:** Estimate the number of establishments assisted by your organization during **1988.** Please classify establishments by type (manufacturing versus non-manufacturing) and size. An establishment, as defined by the Census, counts each store, office, or plant with one or more employees as a separate entity. Non-manufacturing establishments are those major industry groups involved in: agriculture, mining, construction, and services (transportation, finance, government enterprises, etc.).

Type of Establishment	Number of Establishments				TOTAL
	Less than 50	Between 50 & 500	More than 500	Don't Know	
Manufacturing					
Non-Manufacturing					
Don't Know					
TOTAL					

45. **Assistance to Individuals:** Estimate the number of individuals assisted (e.g., innovators, entrepreneurs, etc.) during **1988:** _____.

46. Percentage of establishments assisted during **1988** which required access to:

a) Newly-created technologies: _____
b) Established technologies: _____

47. Percentage breakdown by type of technology targeted during 1988:

a) Aerospace: _____
b) Biotechnology and Life Sciences: _____
c) Earth Sciences: _____
d) Information Technologies: _____
e) Manufacturing Technologies: _____
f) Materials Sciences: _____
g) Other (_____

_____): _____

48. Percentage breakdown by type of assistance provided during 1988:

a) Product/process development: _____
b) Product/process testing: _____
c) Prototype development: _____
d) Product/process commercialization: _____
e) Other: _____

[FR Doc. 88-20801 Filed 9-14-88; 8:45 am]
BILLING CODE 3510-13-C

SECTION VIII: TECHNOLOGY/RESEARCH CENTERS

Answer questions 49 and 50 if your organization supports technology centers or research centers.

49. Provide estimates for the following background statistics:

	Number of Centers	Number of Establishments Participating
a) 1985:	_____	_____
b) 1986:	_____	_____
c) 1987:	_____	_____
d) 1988:	_____	_____
e) 1989:	_____	_____

49. Background statistics (continued):

	Number of Small and Medium-sized Establishments	Number of Manufacturing Establishments
a) 1985:	_____	_____
b) 1986:	_____	_____
c) 1987:	_____	_____
d) 1988:	_____	_____
e) 1989:	_____	_____

50. Percentage breakdown by type of technology targeted during 1988:

a) Aerospace: _____
b) Biotechnology and Life Sciences: _____
c) Earth Sciences: _____
d) Information Technologies _____
e) Manufacturing Technologies _____
f) Materials Sciences _____
g) Other (_____

_____): _____

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: 1990 Decennial Census—Update/Leave.

Form Number: D-105A, D-105B.

Type of Request: New.

Burden: 277,206 hours.

Avg Hours Per Response: 1.5 minutes.

Needs and Uses: These forms will be used to update address lists in some suburban and rural areas for the 1990 Decennial Census of Population and Housing. This approach is necessary because in some areas U.S. Postal Service address lists and lists from commercial vendors are shown to be unreliable. The data will be used by the Census Bureau to conduct the 1990 census.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

OMB Desk officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 12, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-21044 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-07-M

Presidential Board of Advisors on Private Sector Initiatives; Open Meeting

AGENCY: Office of the Secretary, Office of the General Counsel and Office of Business Liaison, Commerce.

SUMMARY: The Presidential Board of Advisors on Private Sector Initiatives will hold a meeting on September 29, 1988. Committee meetings will also be held on this date. Public comment is welcome.

Time and Place:

Presidential Board of Advisors on Private Sector Initiatives

Full Board Meeting

Thursday, September 29, 1988, 2:30 p.m.-3:30 p.m., at the American Red Cross, National Headquarters, Board of Governors Room, 17th & E Streets, NW., Washington, DC 20006.

Committee Meetings

Thursday, September 29, 1988, 1:15 p.m.-2:15 p.m., at the American Red Cross, National Headquarters, Rooms to be Posted, 17th & E Streets, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: The Committee Control Officer, Mr. Robert H. Brumley, Deputy General Counsel, U.S. Department of Commerce, (202/377-4772) or the Alternate Control Officer, Nancy J. Olson, Director, Office of Business Liaison, U.S. Department of Commerce, (202/377-3942), Main Commerce Building, Washigton, DC 20230.

Robert H. Brumley,

General Counsel.

Date: September 9, 1988.

[FR Doc. 88-21113 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-BP-M

International Trade Administration

[C-401-401]

Certain Carbon Steel Products From Sweden; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain carbon steel products from Sweden. We preliminarily determine the net subsidy to be 4.57 percent *ad valorem* for the period March 20, 1985 through December 31, 1985. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: September 15, 1988.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 33375) the final affirmative countervailing duty determination on certain carbon steel products from Sweden. The order was published in the **Federal Register** on October 11, 1985 (50 FR 41547). On Ocrober 31, 1986, Svenskt Staal AB requested in accordance with 19 CFR 355.10 an administrative review of the order. We published the initiation on November 18, 1986 (51 FR 41649). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. We will be providing both the appropriate *Tariff Schedules of the United States Annotated* ("TSUSA") item numbers and the appropriate Harmonized System ("HS") item numbers with our product descriptions on a test basis. As with the TSUSA, the HS item number are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Comemrce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments from Sweden of cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width and 0.1875 inch or more in thickness; or over 12 inches in width and under 0.1875 inch in thickness; whether

or not in coils. Such merchandise is currently classifiable under TSUSA item numbers 607.8320, 607.8350, 607.8355, and 607.8360. These products are currently classifiable under HS item numbers 7209.11.00, 7209.12.00, 7209.13.00, 7209.21.00, 7209.22.00, 7209.23.00, 7209. 24.50, 7209.31.00, 7209.32.00, 7209.33.0.0, 7209..34.00, 7209.41.00, 7209.43.00, 7209.44.00, 7209.90.00, 7211,30.50, 7211.41.70 and 7211.49.50.

We invite comments from all interested parties on these HS classifications.

Svenskt Staal AB ("SSAB") was the only Swedish exporter of the subject merchandise to the United States during the period of review.

Analysis of Programs

(1) Regional Development Incentives

The Swedish government, in conjunction with county administrative boards, provides regional development and employment incentives to compensate firms for the additional costs associated with conducting business in specified regions. The incentives consist of location-of-industry loans and grants (for investment), freight relief, regional investment projects, employment and training grants, and other miscellaneous grants. Except for the employment and training grants, we consider these incentives to be countervailable because they are available only in certain regions of Sweden. (The employment and training grants are not limited to particular regions or specific industries.) SSAB received location-of-industry grants in every year between 1979 and 1985, a long-term variable interest rate location-of-industry loan in 1983, and freight relief in 1985.

For the location-of-industry grants, we used a declining balance methodology to measure the benefit. We allocated the benefits from each grant over 15 years, the average useful life of assets in the steel industry, according to the asset guideline classes of the Internal Revenue Service. We used as discount rates SSAB's weighted-average cost of capital in each year from 1979 to 1985. For the freight relief, which was based on SSAB's 1985 freight expenses, we expensed the full amount received in 1985 in that year. The interest rate on the location-of-industry loan was higher than our benchmark rate. Therefore, we preliminarily determine that this loan is not countervailable.

We divided the sum of these benefits by SSAB's total sales in 1985. On this basis, we preliminarily determine the benefit from this program to be 0.20 percent *ad valorem.*

(2) Reconstruction Loans

The Swedish government provided reconstruction loans to SSAB between 1979 and 1985. The initial reconstruction loans were intended to cover expected operating losses by SSAB during the 1978–1982 restructuring period. Subsequent reconstruction loans were granted for employment promotion. Although the reconstruction loan contracts provide that up to half of the loans may be written off after two years, we found that some loans were forgiven in their entirety after one year. Principal and interest payments on the outstanding loans are required only if SSAB pays dividends to its shareholders. In 1985, SSAB made a payment on the first reconstruction loan in an amount equal to the total dividend paid in that year.

SSAB requested that the Department reconsider whether certain portions of the reconstruction loans are countervailable. SSAB argues that the portion of these loans dedicated to government-mandated programs for retaining redundant workers and for allowing early retirement does not benefit the company and should not be countervailable. SSAB cites the *Final Affirmative Countervailing Duty Determination; Certain Steel Products from Belgium,* (47 FR 39304, September 7, 1982) in support of its argument.

We have considered SSAB's arguments and preliminarily determine that these loans continue to be countervailable in their entirety. In *Certain Steel Products from Belgium,* we found that the company under investigation would not normally have had to pay the costs that the government covered under its labor assistance program. Therefore, the Belgian program did not constitute the assumption of costs, as defined in section 771(5)(B)(iv) of the Tariff Act. In this case, we cannot ascertain what SSAB's costs and obligations would have been under Swedish labor laws absent the government-mandated programs.

Furthermore, it is reasonable to assume that some of the redundant employees replaced the early retirees. Although the remaining redundant employees may not have been used in steel production, they still performed miscellaneous tasks that benefited SSAB. Without the government program, SSAB would have had to hire other employees to perform these miscellaneous tasks. For these reasons, we find that these portions of the reconstruction loans constitute government assumption of labor costs on behalf of a specific industry.

Because all the reconstruction loans were authorized for SSAB under special government legislation and were given to SSAB on terms inconsistent with commercial considerations, we preliminarily determine that they are countervailable.

In our final determination, we found that SSAB was creditworthy from 1978 to 1984. To determine if SSAB was creditworthy in 1985, we focused on the ability of the company to meet its interest obligations. In 1985, SSAB had an adequate times-interest-earned ration (which measures a firm's ability to meet its fixed obligations). In addition, an important indication of creditworthiness is whether private banks lend the company significant funds free from government involvement. SSAB received private loans from commercial banks in 1985. On this basis, we conclude that SSAB continued to be creditworthy during the period of review. Therefore, we did not add a risk premium to the benchmark rate.

To calculate the benefit, we treated the portions of the reconstruction loans that were written off through 1985 as grants and used the same methodology and discount rates as those described in section one. We treated the outstanding loan balance as of December 31, 1984 as a series of short-term loans because the loans bear a variable interest rate that changes every year. We divided the sum of the grant and loan benefits by the value of SSAB's 1985 sales. On this basis, we preliminarily determine the benefit from this program to be 1.43 *ad valorem.*

(3) Structural Loans

Between 1978 and 1983, SSAB received ten 25-year structural loans from the Swedish government for investment in plant and equipment. Two loans carried a 5-percent fixed interest rate for the entire 25-year term, and the remaining eight loans carried interest rates that are fixed for the first five years and readjustable every five years during the 25-year term. The five-year fixed interest rates are adjusted based on the prevailing state loans interest rate plus a margin. The rates on these structural loans during the review period range between 8.75 percent to 12.25 percent, all of which are below our benchmark rates.

All of the structural loans are interest-free for the first three years, and the unpaid interest is not capitalized. There is no repayment of principal during the first five years, after which the loans are

repaid in twenty equal annual installments.

To calculate the benefit from the 25-year fixed rate loans, we compared the difference between the annual payment of principal and interest actually made and the annual payment of principal and interest that SSAB would have made if it had not received preferential interest rates. We then calculated the "grant equivalent" of such loan. The grant equivalent is the amount of money equal to the value, at the time the preferential loan is made, of all the annual benefits that accrue during the life of the loan. This is calculated by taking the present value of the 25-year stream of the annual benefits.

In our final determination, we treated the 25-year loans with readjustable five-year fixed rates as a series of short-term loans and used a short-term interest rate benchmark. We have reconsidered this methodology. Although the loans bear variable interest rates, the rates are fixed for five years. Therefore, it is appropriate to use our short-term loan methodology. Short-term loans are generally defined as those with a duration of less than one year.

Instead, we consider these loans to be a series of five-year loans and have now used a modified version of our long-term loan methodology to calculate the benefit.

Instead of calculating the grant equivalent for the entire life of the loan, we calculate discrete grant equivalents for each five-year period. For the first five-year period, we calculated the annual differentials in interest payments using the interest rate differential prevalent in year one. The grant equivalent of the first five-year period is the sum of the present values (calculated back to the year of receipt of the loan) of the annual interest differentials. Once we know the rates for the second five-year period, we will calculate the annual payment differentials using the interest rate differential prevalent in year six. To obtain the grant equivalent, we calculate the present values of the annual payment differentials back to the year of receipt of the loan. In order to account for the effect on the entire loan of the uncapitalized interest from the three-year interest grace period, we calculated a separate grant equivalent for the interest benefits accruing during the grace period and allocated that amount over the 25-year life of the loan.

We allocated the grant equivalents from both the five-year and 25-year fixed rate loans using the declining balance methodology. On this basis, we preliminarily determine the benefit from the structural loans to be 0.72 percent *ad valorem.*

(4) Government Equity Infusions

The Government of Sweden made equity infusions in SSAB in 1978 and in 1981. In our final determination, we found that SSAB was unequityworthy in those years. There were no new equity infusions after 1981.

Using the same methodology as that in the final determination, we calculated the benefit by multiplying the amount of equity received in 1978 and 1981 by the 1985 rate of return shortfall. The shortfall is the difference between the national average rate of return on equity (10.00 percent) and SSAB's 1985 rate of return on equity (2.56 percent).

In our final determination, we inadvertently compared the national average pre-tax rate of return on equity, published by Statistics Sweden, with SSAB's after-tax rate of return on equity. In this review, we have used the national average after-tax rate of return on equity in Sweden, published by Morgan Stanley in its *Capital International Perspective.* We subtracted the amount of dividends paid to the government in 1985 from the total benefit and divided the result by SSAB's total sales in 1985. On this basis, we preliminarily determine the benefit from this program to be 1.45 percent *ad valorem.*

(5) Government Equity Guarantees

In 1981, when SSAB expanded its capital base, Granges AB, a privately-owned company, bought additional SSAB stock in order to maintain its 25-percent ownership of SSAB. Granges AB acquired the new stock with the understanding that the Swedish government would guarantee a specified sum in 1991 if Granges chose to sell its shares in SSAB. The government's offer was equivalent to a guaranteed annual rate of return of 9.5 percent on Granges' investment.

In our final determination, we treated the funds provided by Granges to SSAB as a loan. We have reconsidered this approach and have concluded that the transaction is not equivalent to a loan because SSAB is under no obligation to repay the funds. That obligation was assumed by the Swedish government, which has guaranteed that it will repay the funds with interest at Granges' option in 1991. Considered as a whole, we believe that the transaction is an equity infusion that the Swedish government is providing indirectly (through Granges) to SSAB.

In our final determination, we found that SSAB was unequityworthy with respect to equity infusions made in 1981. Because the Swedish government's equity infusion through Granges was made in 1981, we are relying on our final determination that SSAB was unequityworthy in that year. Therefore, we included this equity infusion with the other government equity infusions and calculated the benefit according to our rate-of-return shortfall methodology (see section four).

(6) Government Acquisition of Assets for SSAB

In 1978, the Government of Sweden provided funds to SSAB for the acquisition of a railroad from Granges and other assets from Norrbottens Jarnverk AB, a government-owned company. Because these grants were provided to a specific industry, we preliminarily determine that they are countervailable.

Using the methodology described in section one, we allocated the grants over 15 years, using the 1978 weighted-average cost of capital for SSAB as the discount rate. We divided the result by SSAB's total sales in 1985. On this basis, we preliminarily determine the benefit to be 0.73 percent *ad valorem.*

(7) Research and Development Grants to SSAB

The Swedish Board for Technical Development provided interest-free loans and grants to SSAB for research and development. Because these funds were provided to a specific industry and the results of the research are not made available to the public, we preliminarily determine that they are countervailable.

We used the grant and long-term loan methodologies described in section two to calculate the benefit. On this basis, we preliminarily determine the benefit from this program to be 0.01 percent *ad valorem.*

(8) Employment Promotion Grants

In response to the general economic recession in Sweden, the Swedish Parliament passed Government Bill 1976/77:95 in March 1977 under which employment grants were paid to companies recognized as being the dominant employers in a particular community. In order to prevent layoffs, these grants were designed to cover 75 percent of the wages and salaries of surplus workers who performed work at the company that was unrelated to the normal production activities. The Government of Sweden passed several overlapping bills rendering this program available to all industries throughout Sweden. Although these benefits may have been *de jure* available to all industries, the Government of Sweden

did not provide any information showing which other industries actually used the program and what the proportions of the benefits were for each industry. Therefore, we preliminarily determine that this program was provided to specific industries and is countervailable.

To calculate the subsidy from this program, we used the same methodology described in section one. On this basis, we preliminarily determine the benefit from this program to be 0.03 percent *ad valorem.*

(9) Other Programs

We also examined the following programs and preliminarily determine that SSAB did not use them during the period of review:

(A) Government Export Credits;

(B) Municipal and County Subsidies; and

(C) Government Restructuring Program for the Specialty Steel Industry.

Preliminary Results of Review

As a result of our review, we preliminarily find the net subsidy to be 4.57 percent *ad valorem* for the period March 20, 1985 through December 31, 1985.

Section 707(a) of the Tariff Act (the "Act") provides that the difference between the amount of a cash deposit, or the amount of any bond or security, for an estimated countervailing duty and the duty determined under a countervailing duty order shall be disregarded to the extent that the estimated duty is lower than the duty determined under the order, and refunded to the extent that the estimated duty is higher than the duty determined under the order, for merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the countervailing duty order, which in this case was October 1, 1985 (50 FR 41547). The rate in our preliminary determination (50 FR 11224, March 20, 1985) was 3.38 percent *ad valorem.*

In accordance with section 705(a)(1) of the Tariff Act, the final determination in this case was extended to coincide with the antidumping final determination on the same products from Austria. Because we cannot impose suspension of liquidation for more than 120 days without the issuance of a countervailing duty order, we terminated the suspension of liquidation for entries or withdrawals made on or after July 19, 1985 and before October 11, 1985, the date of publication of the countervailing duty order.

Therefore, the Department intends to instruct the Customs Service to assess countervailing duties of 3.38 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 20, 1985 and on or before July 18, 1985, except for Surahammars Bruks AB, which is excluded from the order. Entries or withdrawals between July 19, 1985 and October 10, 1985 are not subject to countervailing duties. The Department intends to instruct the Customs Service to assess countervailing duties of 4.57 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 11, 1985 and exported on or before December 31, 1985.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 4.57 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement will remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday following.

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 19 CFR 355.10.

Date: September 6, 1988.

Jan W. Mares,

Assistant Secretary, Import Administration.

[FR Doc. 88-20995 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-DS-M

Caribbean Basin Business Promotion Council; Open Meeting

AGENCIES: International Trade Administration and the Office of the U.S. Trade Representative.

SUMMARY: This is the third meeting of the Caribbean Basin Business Promotion Council (Council). The Council consists of 28 private sector members and eight U.S. Government representatives and was established to advice the Secretary of Commerce on matters pertinent to implementation of the Caribbean Basin Initiative (CBI). The Council's advise will also be forwarded to the interagency CBI Task Force.

Time and Place: September 30, 1988 from 8:30 a.m. to approximately 5:30 p.m. The meeting will take place in Room 6808 of the U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC. Identification is required to obtain entry to the building.

Proposed Agenda

1. A presentation by the Secretary General of the Organization of American States regarding its Caribbean Basin programs.

2. A discussion of maritime transportation issues and problems in the Caribbean Basin by representatives of the U.S. Maritime Administration.

3. A status report on the Caribbean Development (936) program by a representative of the U.S. Treasury Department.

4. A follow-up report on the June 24 meeting of The International Commission for Central American Recovery and Development.

5. A Congressional outlook report on the Caribbean Basin Initiative and CBI enhancement legislation.

6. A Director's report on the Department of Commerce's CBI Center activities.

7. Review of Council's work plan and country visit program.

Public Participation: The meeting will be open to public participation and a period will be set aside for oral comments or questions, beginning on or around 4:30 p.m. Any member of the public may submit written comments concerning the committee's affairs at any time before and after the meeting. Limited seating is available to the public.

FOR FURTHER INFORMATION CONTACT: Paul D. Bucher, Caribbean Basin Information Center, U.S. Department of Commerce, Main Commerce Building, Room 3020, Washington, DC 20230, Telephone (202) 377-0703. Copies of the minutes of the Council's meeting will also be available at the above office 30 days after the meeting.

Date: September 12, 1988.

Gordon Studebaker,

Director, CBI Center.

[FR Doc. 88-21075 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-FP-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Meeting that is Partially Closed to the Public

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

Time and Date: The meeting will convene at 8:00 a.m., October 5, 1988, and adjourn at approximately 4:00 p.m., October 6, 1988.

Place: Sheraton Premiere at Tysons Corner, 8661 Leesburg Pike, Vienna, Virginia.

Status: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeing of the Marine Fisheries Advisory Committee (MAFAC). Parts of this meeting will be oepn to the public. The remainder of the meeting will be closed to the public. MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, environmental, state, consumer, academic, and other national interests.

Matters to be considered:

Portions Open to the Public

October 5, 1988, 8:00 a.m.–6:00 p.m., priorities for NOAA fisheries, marine fishing license proposal, State/Federal activities, habitat conservation (marine debris) issues, and seafood inspection.

October 6, 1988, 8:30 a.m.–12:15 p.m., Magnuson Act reauthorization, domestic observers, and marine recreational fisheries issues.

Portion Closed to the Public

October 6, 1988, 1:45–3:45 p.m. (Executive Session), budget and program priorities.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with concurrence of the General Counsel, formally determined on September 6, 1988 pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the Executive Session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(9)(B) as information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, Constituent Affairs Staff-Fisheries, Office of Legislative Affairs, NOAA, Washington, DC 20235. Telephone: (202) 673–5429.

Date: September 9, 1988.

William Matuszeski,

Executive Director of the National Marine Fisheries Service.

[FR Doc. 88–21009 Filed 9–14–88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Modification; Dr. Steven Swartz and Dr. Randall S. Wells (P146A)

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the regulations governing endangered fish and wildlife (50 CFR Parts 222 through 227), scientific research Permit No. 609 issued to Dr. Steven L. Swartz and Dr. Randall S. Wells, Institute of Marine Sciences, Long Marine Laboratory, University of California, Santa Cruz, California 95060 on September 4, 1987 (52 FR 34267) is modified as follows:

Section A is modified to read:

Up to fifteen (15) whales my be radio-tagged per year in any combination of blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), and humpback (*Megaptera novaeangliae*) whales, with no more than five (5) individuals of any one species tagged during a given year.

This modification becomes effective upon publication in the **Federal Register**.

The Permit and modification are available for review in the following offices: Office of Protected Resources and Habitat Programs, Permit Division, 1825 Connecticut Ave., NW., Washington, DC; and Director, Southwest Region, National Marine Fisheries Service, 300 Ferry Street, Terminal Island, California 90731–7415.

Date: September 9, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88–21008 Filed 9–14–88; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of Bangladesh

September 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Adjusting a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: September 19, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: The current limits for certain cotton and man-made fiber categories are being increased for carryover.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 752, published on January 12, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee For The Implementation of Textile Agreements

September 12, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel the directive issued to you on January 7, 1988. That directive concerns imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1988 and extends through January 31, 1989.

Effective on Sept. 19, 1988, the directive of January 7, 1988 is amended to add 384.2302, 384.2304 and 384.2307 to the TSUSA numbers for Category 641pt. Also, the January 7, 1988 directive is amended to increase the previously established limits for cotton and man-made fiber textile products in the following categories, under the provisions of the current bilateral textile agreement between the Governments of the United States and the People's Republic of Bangladesh:

	Adjusted 12-month limit [1]
Category:	
331	629,834 dozen pairs.
334	75,844 dozen.
335	136,179 dozen.
336	70,596 dozen.
338/339	705,960 dozen.
635	124,604 dozen.
641	553,570 dozen of which not more than 193,749 dozen shall be in Category 641pt.[2]
645/646	214,141 dozen.

[1] The limits have not been adjusted to account for any imports exported after January 31, 1988.
[2] In Category 641pt., only TSUSA numbers 384.2302, 384.2304, 384.2307, 384.9110 and 384.9120.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-21047 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

September 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 198, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bullentin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limits for certain cotton and man-made fiber textile products are being adjusted, variously, for swing and carryforward. As a result, the limit for Category 334, which is currently filled, will re-open.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 52 FR 55, published on January 4, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee For The Implementation of Textile Agreements

September 12, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 30, 1987 by the chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on September 19, 1988, the directive of December 30, 1987 is being amended to include adjusted limits for the following categories, as provided under the provisions of the current bilateral textile agreements between the Governments of the United States and the People's Republic of China:

	Adjusted 12-month limit [1]
Category:	
239	3,969,000 pounds.
300/301	6,750,000 pounds.
334	268,070 dozen.
335	282,500 dozen.
350	119,700 dozen.
359-C [2]	966,000 pounds.
369-L [3]	5,250,000 pounds.
634	494,550 dozen.
635	516,600 dozen.
637	236,210 dozen.
638/639	1,870,795 dozen.
640	1,302,000 dozen.
641	1,105,650 dozen.
645/646	672,000 dozen.
649	712,950 dozen.
651	596,400 dozen of which not more than 105,000 dozen shall be in Category 651pt.[4]
659-C [5]	619,600 pounds.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.
[2] In Category 359-C, only TSUSA numbers 381.0822, 381.6510, 384.0928 and 384.5222.
[3] In Category 369-L, only TSUSA numbers 706.3210, 706.3650 and 706.4111.
[4] In Category 651pt., only TSUSA numbers 384.2222 and 384.8632.
[5] In Category 659-C, only TSUSA numbers 381.3325, 381.9805, 384.2205, 384.2530, 384.8606, 384.8607 and 384.9310.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-21046 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-DP-M

Amendment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Philippines

September 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 19, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-6735. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limits for Categories 331, 335 and 443 are being increased, variously, for carryforward, swing and special shift. The Group II limit and the limit for Category 635 are being reduced to account for the swing and special shift applied.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 163, published on January 5, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisons of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee For The Implementation Of Textile Agreements

September 12, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 30, 1987 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Philippines and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on September 19, 1988, the directive of December 30, 1987 is being amended to adjust the limits for the following categories, under the terms of the current textile agreement between the Governments of the United States and the Philippines:

Category	12-month limit [1]
Levels in group I:	
331	898,350 dozen pairs.
335	131,689 dozen.
443	40,988 numbers.
635	259,132 dozen.
Group II:	
200, 201, 218-229, 300-326, 330, 332, 349, 350, 353, 354, 359, 360-363, 369-0 [2], 400, 410, 414, 432, 434-442, 444, 448, 459, 464-469, 600-603, 606-629, 630, 632, 644, 653, 654, 659-0 [3], 665-670 and 831-859, as a group.	68,418,724 square yards equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.
[2] In Category 369-0, all TSUSA numbers except 366.2840.
[3] In Category 369-0, all TSUSA numbers except 703.0510, 703.0520, 703.0530, 703.0540, 703.0550, 703.0560, 703.1000, 703.1610, 703.1620, 703.1630, 703.1640 and 703.1650.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-21045 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products From Taiwan; Correction

September 12, 1988.

In footnote 1 of the letter to the Commissioner of Customs published in the **Federal Register** on January 4, 1988 (53 FR 62), add TSUSA number of 355.3500 to the TSUSA's for Cateogory 229-F.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-21050 Filed 9-14-88; 8:45 am]

BILLING CODE 3510-DR-M

DELAWARE RIVER BASIN COMMISSION

Proposed Amendment to Comprehensive Plan and Water Code of the Delaware River Basin

AGENCY: Delaware River Basin Commission.

ACTION: Proposed comprehensive plan and water code amendment hearing.

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing to receive comments on a proposed amendment to its Comprehensive Plan and Water Code to include a drought management plan for the Christina River Basin, Chester County, Pennsylvania and New Castle County, Delaware. The hearing will be part of the Commission's regular business meeting which is open to the public.

The public hearing is scheduled for Wednesday, October 26, 1988 beginning at 1:00 p.m. Persons wishing to testify at this hearing are requested to register with the Secretary to the hearing. The comment closing date will be determined at the hearing.

Written comments should be submitted to Susan M. Weisman, Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628. The public hearing will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

For further information, contact Susan M. Weisman, Commission Secretary, Delaware River Basin Commission, (609) 883-9500.

The subject of the hearing will be as follows:

Amendment to the Comprehensive Plan and Water Code of the Delaware River Basin to include a Drought Management Plan for the Christina River Basin, Chester County, Pennsylvania and New Castle County, Delaware.

Article 2 of the Water Code of the Delaware River Basin includes Commission policy relating to the conservation, development and utilization of Basin water resources. Specifically, it is proposed to:

Amend the Comprehensive Plan and Article 2 of the Water Code of the Delaware River Basin, which are referenced in 18 CFR Part 410, by the addition of a new subsection 2.5.7 Drought Management Plan for the Christina River Basin, Chester County, Pennsylvania and New Castle County, Delaware, a background and summary of which follow.

Basinwide drought declarations by the Delaware River Basin Commission, which bases its drought management plan on the amount of storage available in surface water impoundments in the upper basin, have at times complicated the management of the water sources in the Christina River Basin which has a major dependence on ground water supplies in Pennsylvania and surface water supplies in Delaware. Past drought actions, for example, have

demonstrated that surface water conditions may improve to a point where some water use restrictions may be lifted, while some local ground water levels have not sufficiently recovered to justify such action. In order to address the unique hydrologic circumstances of the Christina River Basin, a drought management plan was developed which establishes drought criteria based on both surface and ground water conditions within the Christina River Basin and recommends actions to be undertaken on a coordinated basis as conditions dictate, notwithstanding the absence of a Commission drought declaration.

The plan is incorporated in the drought management plan of the Commonwealth of Pennsylvania and the State of Delaware and is now proposed for inclusion in the Commission's Comprehensive Plan. The proposed amendment defines the area to be governed by the plan; plan administration; drought indicators, criteria and actions; enforcement and plan amendment procedures.

Anyone interested in obtaining a copy of the full text of the proposed Comprehensive Plan amendment may request a copy by writing or calling Susan M. Weisman, Commission Secretray, at (609) 883-9500.

Delaware River Basin Compact, 75 Stat. 688.

Susan M. Weisman,

Secretary.

September 6, 1988.

[FR Doc. 88-20973 Filed 9-14-88; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/SW)EU-145, for the transfer of irradiated fuel rods and uranium oxides from Belgium to Sweden containing 4.376 kilograms of uranium enriched to approximately 4.5 percent in the isotope uranium-235, and 17.2 grams of plutonium for irradiation testing at Studsvik.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: September 9, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88-21104 Filed 9-14-88; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the International Atomic Energy Agency (IAEA) concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following sale:

Contract Number S-IA-149, for the sale of 1.001 grams of uranium, enriched to 19.81 percent in the isotope uranium-235 to the IAEA for use as standard reference material by the La Reina Nuclear Research Center, Santiago, Chile.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: September 9, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88-21105 Filed 9-14-88; 8:45 am]

BILLING CODE 6450-01-M

Defense Programs; Designation of Nuclear Command and Control Positions

AGENCY: Defense Programs, Department of Energy.

ACTION: Notice of special requirements to qualify for nuclear command and control positions.

SUMMARY: Defense Programs is supporting a new Presidentially-directed program to upgrade the nuclear command and control system, which is used by the President, Secretary of Defense and military leaders to communicate high-priority messages concerning nuclear weapon operations. Defense Programs is required to designate nuclear command and control positions that will allow persons in those positions to have access to very sensitive data. The total number of positions will be fifteen or less, and these positions will be located at Albuquerque Operations Office, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, Sandia National Laboratories (Albuquerque and Livermore) and Defense Programs. Participation in this program is voluntary and requires a special background investigation, drug testing and a counterintelligence polygraph examination for each participant.

DATE: Testing will begin October 17, 1988 or later.

FOR FURTHER INFORMATION CONTACT: James M. Turner, Associate Director for Weapons Program Safety, Office of Deputy Assistant Secretary for Military Application, Department of Energy, DP-20.1, 1000 Independence Avenue, Washington, DC 20585, (301) 353-3463.

Issued in Washington, DC, on September 6, 1988.

Richard DuVal,

Acting Assistant Secretary.

[FR Doc. 88-21107 Filed 9-14-88; 8:45 am]

BILLING CODE 6450-01-M

[Agreement No. DE-FC07-ID12833]

Intent to Negotiate a Cooperative Agreement; Union Carbide Corp.

AGENCY: Department of Energy.

ACTION: Intent to negotiate a cooperative agreement; Union Carbide Corporation.

SUMMARY: Oxygen Enriched Combustion System Performance Study

The U.S. Department of Energy (DOE), Idaho Operations Office, intends to negotiate on a non competitive basis with Union Carbide Corporation, Linde Division, Old Saw Mill River Road, Tarrytown, NY 10591. The Cooperative Agreement will be an extension of an ongoing agreement with DOE for testing of an oxygen enriched combustion system and an advanced oxygen generation system. The Participant will (1) evaluate the energy savings and the performance of a full scale 90–100 percent oxygen combustion system in an on-line industrial glass furnace, and (2) evaluate the performance and cost effectiveness of an Advanced Pressure Swing Adsorption Oxygen Generation System For Combustion Applications. The authority and justification for Determination of Noncompetitive Financial Assistance (DNCFA), is DOE Financial Assistance Rules 10 CFR Part 600.7 (2)(i) (A) and (D); (A) The activity to be funded is necessary to the satisfactory completion of or is a continuation or renewal of, an activity presently being funded by DOE or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity. (D) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications. Public response may be addressed to the contract specialist stated below.

Contact: U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, Dallas L. Hoffer Contract Specialist (208) 526–0014.

Issued this 7th day of September, at Idaho Falls, Idaho.

September 7, 1988.

Don Ofte,

Manager.

[FR Doc. 88–21106 Filed 9–14–88; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. PP–88]

Application for a Presidential Permit; Comision Federal de Electricidad

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application by the Comision Federal de Electricidad for a permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Mexico.

SUMMARY: The Comision Federal de Electricidad (CFE), an agency of the Republic of Mexico, has applied to the Economic Regulatory Administration (ERA) of the Department of Energy for a Presidential permit to construct, connect, operate and maintain electric transmission facilities at the international border between the U.S. and Mexico. Specifically, CFE seeks permission to connect with existing electrical distribution facilities owned and operated by the Rio Grande Electric Cooperative, Inc., of Brackettville, Texas, for the purpose of importing electricity for use in the townsite of Boquillas del Carmen, Coahuila, Mexico.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, Department of Energy, Economic Regulatory Administration (RG–22), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5935

Lise Courtney M. Howe, Department of Energy, Office of General Counsel (GC–41), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2900

SUPPLEMENTARY INFORMATION: On June 28, 1988, CFE applied to the ERA, pursuant to Executive Order No. 10485, as amended by Executive Order No. 12038, for a Presidential permit to construct, connect, operate and maintain a 14,400/24,900 volt electric distribution line at the international border between the U.S. and Mexico. The proposed facilities would consist of two 45 foot, Class 4 wood poles and approximately 845 feet of conductor extending from the center of the Rio Grande River (the U.S.–Mexican border) to the existing distribution facilities owned and operated by the Rio Grande Electric Cooperative and located approximately one half mile north of Rio Grande Village in Big Bend Park, Texas. The purpose of the proposed facilities, according to the applicant, is to provide electricity to the townsite of Boquillas de Carmen, Coahuila, Mexico, which is currently without electric service.

Any person desiring to be heard or to protest this application for a Presidential permit should file a petition to intervene or protest with the Economic Regulatory Administration, Room GA–093, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed on or before (30 days from this notice). Protests will be considered by the ERA 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 application will be made available, upon request, for public inspection and copying at the Department of Energy's Freedom of Information Room, Room 1E–090, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Issued in Washington, DC, on September 9, 1988.

Constance L. Buckley

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–21108 Filed 9–14–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC).

Date and Time: October 17, 1988, 9:00 a.m.–5:00 p.m.; October 18, 1988, 9:00 a.m.–3:00 p.m.;

Place: Argonne National Laboratory, Building 201, Room 275, 9700 South Cass Avenue, Argonne, Illinois 60439.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER–11), Office of Energy Research, Washington, DC 20545, Telephone: 301–353–3081.

Purpose of the Committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Basic Energy Sciences (BES) program.

Tentative agenda:

Briefings and discussions of:

October 17, 1988

- BESAC Subcommittee Reports.
- Argonne Research Highlights.
- BESAC 1988 Report.
- Public Comment (10 Minute Rule).

October 18, 1988

- BESAC Subcommittee Reports.
- Status of Panel Study on Global Change.
- BESAC 1988 Report.
- Public Comment (10 Minute Rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be 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 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on September 12, 1988.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 88-21109 Filed 9-14-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-584-000, et al.]

Montaup Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 12, 1988.

Take notice that the following filings have been made with the Commission:

1. Montaup Electric Company

[Docket No. ER88-584-000]

Take notice that on September 1, 1988 Montaup Electric Company (Montaup) tendered for filing an amendment to the Unit Sales and Contract demand Agreement between Montaup Pascoag Fire District for the sale of capacity and energy from Somerset Unit No. 6 and Canal Unit No. 2 dated November 1, 1981 as amended on September 13, 1983 (FERC Rate Schedule No. 64). This Amendment extends the Canal 2 unit sale at the existing rate of $4.78 per kw per month for a period of four years beginning November 1, 1988 and provides for a unit sale of Somerset 6 at a rate of $6.43 per kilowatt per month for a two year period beginning November 1, 1988. As shown in the amendment, as the amounts of capacity and energy from the unit sales decrease they are replaced by increased amounts of contract demand service.

Comment date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Montaup Electric Company

[Docket No. ER88-585-000]

Take notice that on September 1, 1988 Montaup Electric Company (Montaup) tendered for filing two agreements, which are negotiated, as a single package.

The first is a contract between Montaup and Middleborough Gas and Electric Department for the sale of capacity and energy from Somerset Unit No. 6. This contract is for a term of seven years beginning November 1, 1988. Middleborough's entitlement percentage will be 1.7688% (2 MW).

The capacity charge will be $6.45/kW-mo. At the time Montaup and Middleborough negotiated this contract, a cost of service for Somerset Unit No. 6 had not been made. Montaup estimated the rate to be $6.45/kW-mo. The actual rate was $7.14/kW-mo. Montaup and Middleborough agreed to use the $6.45/kW-mo. month estiamte as the rate for this contract.

Montaup requests that this contract be made effective according to its terms on November 1, 1988. The contract provides for termination by either party; and, in the event that the contract is terminated, Montuap and Middleborough agreed to convert the 2 MW Unit Sale to a 2 MW contract demand. Montaup will give notice of termination of the Unit Sales Agreement on October 31, 1988, which means that the conversion of the unit sale to contract demand service will occur as of November 1, 1990.

The second agreement tendered for filing is an amendment to Montaup's and Middleborough's agreement for contract demand service to Middleborough (FERC Rate Schedule No. 75) containing terms and conditions applicable to the 2 MW of contract demand to be added on November 1, 1990. Montaup requests that this amendment be made effective on that date. Montaup requests waiver of the 120 day notice requirement to permit the amendment to be filed now as the parties intended.

Comment date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Niagara Mohawk Power Corporation

[Docket No. ER88-586-000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on September 1, 1988, tendered for filing an Agreement between Niagara Mohawk and The City of Buffalo (Public Body) dated August 29, 1988. Niagara Mohawk proposes an effective date of October 28, 1988 for the Agreement.

This Agreement provides for Niagara Mohawk to allow the use of such portions of its electric system and facilities as are required for the delivery of Preference Power to Eligible Customers of the Public Body. The Public Body's agent purchases the Preference Power from the Power Authority of the State of New York.

Niagara Mohawk further states that the proposed rate is the rate per kWhr charged under Niagara Mohawk's applicable, residential rate tariff, minus the cost of fuel included in the retail rates, plus additional A&G expenses incurred by Niagara Mohawk as a result of the services provided the Agency under the Agreement. Niagara Mohawk states that the rate was arrived at through arms-length negotiations between the parties, and that the proposed rate is intended to produce a return to Niagara Mohawk essentially equivalent to which Niagara Mohawk would have received had it supplied at its residential retail rates the amount of power delivered as Preference Power. Niagara Mohawk seeks waiver of the notice requirements, stating that its metering and billing cycle starts on October 28 and that service to other Public Bodies will commence that day.

Copies of this filing were served upon the Public Service Commission of the State of New York the City of Buffalo.

Comment Date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Canal Electric Company

[Docket No. ER88-587-000]

Take notice that on September 2, 1988 Canal Electric Company (Canal) tendered for filing a Power Contract (the "Power Contract") between Canal, Cambridge Electric Light Company and Commonwealth Electric Company and an NU Units Capacity Acquisition Commitment (The "Commitment"). The Power Contract implements the terms of the Capacity Acquisition Agreement (FERC Rate Schedule No. 21) and the Commitment. Such Power Contract recognizes the purchase of demand and energy by Canal from Connecticut Light and Power Company, a subsidiary of Northeast Utilities, over the time period November 1, 1988 to October 31, 1989 and the sale of such power to Cambridge Electric Light Company and Commonweatlth Electric Company. Canal has requested that the Commission's notice requirements with respect to the Commitment be waived pursuant to section 35.11 of the Commission's regulations in order to allow the tendered rate change to

become effective as of November 1, 1988.

Comment Date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Columbus Southern Power Company

[Docket No. ER88-588-000]

Take notice that Columbus Southern Power Company (CSPCo) on September 2, 1988, tendered for filing proposed modifications to its Rate Schedules for Municipal Wholesale Service—City of Westernville and Revised Municipal Wholesale Service. The proposed modifications pertain to CSPCo's FERC fuel adjustment clauses and reflect the fact that the operating subsidiaries of the American Electric Power (AEP) System, including CSPCo, plan to change the basis of the economic dispatch of their generating plants from an average cost to a marginal cost method as of October 1, 1988.

CSPCo is proposing to modify its FERC fuel adjustment clauses during a verification period as necessary to permit the initial recovery of costs recovered under its FERC fuel adjustment clauses to be based upon an estimate and to prevent the recovery of any increases in cost that may result from the new dispatch methodology. CSPCo states that the proposed modifications do not increase the costs to be passed on to CSPCo's firm wholesale customers under its FERC fuel adjustment clauses.

Copies of this filing were served upon CSPCo's jurisdictional customers and the Public Utilities Commission of Ohio.

Comment date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Power Company

[Docket No. ER88-589-000]

Take notice that Kentucky Power Company (KPCo) on September 2, 1988 tendered for filing proposed modifications to its FERC Rate Schedule No. 13. The proposed modifications pertain to KPCo's FERC fuel adjustment clause and reflect the fact that the operating subsidiaries of the American Electric Power (AEP) System, including KPCo, plan to change the basis of the economic dispatch of their generating plants from an average cost to a marginal cost method as of October 1, 1988.

KPCo is proposing to modify its FERC fuel adjustment clause during a verification period as necessary to permit the initial recovery of costs recovered under its FERC fuel adjustment clause to be based upon an estimate and to prevent the recovery of any increases in cost that may result from the new dispatch methodology. KPCo states that the proposed modifications do not increase the costs to be passed on to KPCo's firm wholesale customer under its FERC fuel adjustment clause.

Copies of the filing were served upon KPCo's jurisdictional customer and the Kentucky Public Service Commission.

Comment date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Central Vermont Public Service Corporation

[Docket No. ER88-590-000]

Take notice that on September 1, 1988 Central Vermont Public Service Corporation ("Central Vermont" or "the Company") filed a notice of termination of system power service to Vermont Electric Generation and Transmission Cooperative, Inc. ("VEC"). Central Vermont provides VEC with system power pursuant to a Power Purchase Contract, designated Rate Schedule FPC No. 88, effective November 1, 1975. That contract provides that either party may terminate the contract on four years' notice. The Company provided notice by letter dated February 23, 1984 that it would terminate the contract effective October 31, 1988.

The Company states that copies of the filing have been mailed to VEC and to the Vermont Public Service Board.

Comment date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Pool

[Docket No. ER88-582-000]

Take notice that on September 1, 1988, the New England Power Pool (NEPOOL) Executive Committee filed a Supplement to NEPOOL Agreement, dated as of August 31, 1988, (Supplement) which contains increased Capability Responsibility charges under the NEPOOL Agreement (NEPOOL FPC No. 2), dated as of September 1, 1971, as previously amended by twenty-five (25) amendments.

The NEPOOL Executive Committee states that the pool Capability Responsibility adjustment charge and Capability Responsibility deficiency charge have been changed pursuant to sections 9.4(b) and 9.4(d) of the NEPOOL Agreement in order to accomplish the bulk power reliability objectives of NEPOOL and to provide the equitable sharing of costs and benefits of the pool. The NEPOOL Executive Committee has requested that the change Capability Responsibility charges be permitted to become effective on November 1, 1988, the beginning of the next pool Power Year.

The NEPOOL Executive Committee states that copies of the filing were served on all electric utility systems rending or receiving service under the NEPOOL Agreement and on the public utility regulatory commissions of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

Comment date: September 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21079 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9403-000]

Hoskins Diversified Industries; Availability of Environmental Assessment

September 12, 1988.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for exemption for the proposed Mascoma Hydroelectric Project and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices

at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21080 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-147-001; RP88-45-008; TQ89-1-31-000; RP88-248-000]

Arkla Energy Resources; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment and Revised Tariff Language

September 12, 1988.

Take notice that on September 1, 1988, Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing the following tariff sheets:

Rate Schedule No. X-26, Original Volume No. 3	Rate Schedule No. G-2, First Revised Volume No. 1
(1) Docket No. RP-88-147-000 Substitute Tariff Sheets effective June 1, 1988	
1st Substitute 2nd Rev. 45th Rev. Sheet 185.	1st Substitute 2nd Rev. 46th Rev. Sheet 4.
1st Substitute 6th Rev. Sheet 187.	1st Substitute 6th Rev. Sheet 12A.
1st Substitute 5th Rev. Sheet 187A.	1st Substitute 8th Rev. Sheet 12A.
1st Substitute 5th Rev. Sheet 187B.	1st Substitute 9th Rev. Sheet 12C.
1st Substitute 7th Rev. Sheet 187C.	1st Substitute 10th Rev. Sheet 12D.
1st Substitute 4th Rev. Sheet 187D.	1st Substitute 6th Rev. Sheet 12E.
1st Substitute 6th Rev. Sheet 188.	1st Substitute 5th Rev. Sheet 12F.
1st Substitute 5th Rev. Sheet 188A.	
(2) Docket No. RP-88-45-000 Substitute Tariff Sheets effective July 1, 1988	
	4th Substitute 46th Rev. Sheet 185.
	4th Substitute 47th Rev. Sheet 4.
6th Revised Sheet No. 187A.	9th Revised Sheet No. 12B.
6th Revised Sheet No. 187B.	10th Revised Sheet No. 12C.
8th Revised Sheet No. 187C.	11th Revised Sheet No. 12D.
5th Revised Sheet No. 187D.	7th Revised Sheet No. 12E.
(3) Docket No. TQ89-1-31 Quarterly PGA filing effective October 1, 1988	
1st Revised Sheet No. 185.1.	48th Revised Sheet No. 4.
(4) Docket No. RP88- Tariff Sheets reflecting Take-Or-Pay Costs	
Original Sheet No. 185.2.	Original Sheet No. 4.1.

In (1) above the substitute tariff sheets are being filed to become effective June 1, 1988 pursuant to Commission letter order dated August 12, 1988 requiring AER to make certain changes which were originally filed by 2, 1988 in accordance with Order 483.

In (2) above the substitute tariff sheets are being filed to become effective July 1, 1988 which supersede the sheets reissued in (1) above and also reflect the change from an Mcf to an MMBTU basis as provided in AER's compliance filing effective July 1, 1988.

In (3) Above these tariff sheets reflect AER's second quarterly PGA filing under the Commission's transitional rules of Order No. 483.

The proposed changes would increase AER system cost by $369,646 and its jurisdictional sales and service by $97,890 for the PGA period of October, November, and December 1988 as adjusted.

In (4) above these tariff sheets reflect the allocation of take-or-pay demand costs to AER's jurisdictional customers which were billed to AER by United Gas Pipe Line Company pursuant to Commission order in Docket Nos. RP88-27-002 and RP85-209-012.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21081 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-1-33-000 and TM89-1-33-000]

El Paso Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 12, 1988.

Take notice that El Paso Natural Gas Company ("El Paso"), on August, 1988, tendered for filing pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations under the Natural Gas Act, a notice of:

(i) A Quarterly Adjustment in Rates for jurisdictional gas service rendered to sales customers served by El Paso's interstate gas transmission system under rate schedules affected by and subject to El Paso's FERC Gas Tariff and pursuant to the Commission's order issued March 31, 1988, at Docket Nos. TA88-3-33-000 and TA88-1-33-000;

(ii) A request for waiver to permit El Paso to suspend collection of its Account 191 surcharge until its Gas Inventory Charge ("GIC") mechanism can be made effective at which time the deferrals to Account 191 will be collected through direct billing;

(iii) An adjustment to the Special Liquid Surcharge rate for east-of-California one-part rate, jurisdictional sales customers of El Paso, pursuant to El Paso's Settlement at Docket No. RP86-157-000; and

(iv) A change in the Annual Charge Adjustment ("ACA") for jurisdictional sales customers and shippers.

El Paso tendered certain alternative tariff sheets in compliance with its PGA provisions which reflect a net increase of $2.8999 per dth in rates above those rates in effect on July 1, 1988.

El Paso states it submitted primary tariff sheets which do not reflect the collection of Account 191 surcharges, and result in rates that are $2.8043 per dth less than those rates proposed under the alternative tariff sheets, and an increase of $0.0956 per dth above those rates in effect on July 1, 1988.

El Paso states that it is presently involved in settlement discussions related to numerous proceedings pending before the Commission including, in particular, El Paso's proposed Gas Inventory Charge ("GIC") mechanism pending at Docket No. CP88-434-000. In such proceeding, El Paso has proposed to collect the Account 191 balance through a direct billing mechanism upon the Commission's approval and El Paso's acceptance of such GIC. In view of the pendency of such proposal, as a transitional measure, El Paso requested that the Commission grant waiver of that portion of section 19.4 of section 19, Purchased Gas Cost Adjustment Provision of the General Terms and Conditions in El Paso's FERC Gas Tariff, First Revised Volume No. 1, so as to permit suspension of the collection of the Account 191 block balances through surcharges during the interim period prior to the effective date of its GIC. El Paso proposed and requested authorization to continue to record carrying charges on its unrecovered gas costs during the period the collection of its surcharge is under suspension. El

Paso requested that the waiver requested be granted for the period its GIC proposal is pending before the Commission; subject, however, to the understanding that the appropriateness of such waiver may be reviewed upon each quarterly PGA filing made by El Paso and subject, further, to El Paso's right to reinstitute collection of the surcharge if El Paso's proposed GIC is rejected by the Commission or, if approved with conditions, is not implemented by El Paso.

El Paso states that this request for waiver should be granted because: (i) It will avoid unnecessary increases in El Paso's take-or-pay exposure, the costs which will largely be billed to its customers; (ii) it will ensure correct market signals are sent concerning the current cost of El Paso's gas; and (iii) it will eliminate improper cost shifting among El Paso's customers.

Further, El Paso states it proposed a revised Special Liquid Surcharge for El Paso's one-part rate customers of $0.1997 per dth pursuant to the Offer of Settlement at Docket No. RP86-157-000, which is an increase of $0.0263 per dth above the Special Liquid Surcharge in effect for the period October 1, 1987 through September 30, 1988.

El Paso states that the ACA authorized by the Commission in its statement dated June 30, 1988, to be collected by pipelines for the fiscal year commencing October 1, 1988, is $0.0018 per Mcf (the equivalent in El Paso's rates is $0.0017 per dth). Accordingly, the tendered tariff sheets when accepted for filing and permitted to become effective, will decrease El Paso's current ACA of $0.0020 per dth by $0.003 per dth for sales and transportation rates.

El Paso respectfully requests that the Commission grant such waivers of its applicable rules and regulations as may be necessary to permit the tendered primary tariff sheets to become effective October 1, 1988. In the event the Commission does not accept El Paso's primary tariff sheets, El Paso tendered alternative tariff sheets which El Paso proposes be made effective in lieu of their primary counterparts. Additionally, El Paso requests that those tariff sheets applicable to the transportation rates reflecting the revision in the ACA charges be made effective October 1, 1988.

Copies of the filing were served upon all of El Paso's interstate pipeline system customers, all parties of record at Docket Nos. TA88-3-33-000, TA88-1-33-000 and RP86-157-000, and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before Sept. 19, 1988. 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 in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21082 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA89-51-000 and TM89-51-000]

Great Lakes Gas Transmission Co.; Proposed Changes in F.E.R.C. Gas Tariff; Purchased Gas Adjustment Clause Provisions

September 12, 1988.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on September 1, 1988, tendered for filing Second Substitute Sixth Revised Sheet No. 54-A, Sixteenth Revised Sheet Nos. 57(i) and 57(ii), First Revised Sheet No. 57(iv) and Third Revised Sheet No. 57(v) to its FERC Gas Tariff, First Revised Volume No. 1 and Second Substitute Sixth Revised Sheet Nos. 53-C and 78-C of Original Volume No. 2.

Great Lakes states First Revised Sheet No. 57(iv) reflects the new ACA rates to be changed per the Annual Charge Adjustment Clause provisions established by the Commission in Order No. 472, issued on May 29, 1987. The new ACA rate to be charged by Great Lakes is per FERC notice given on June 30, 1988 and is to be effective October 1, 1988.

Great Lakes states Second Substitute Sixth Revised Sheet Nos. 54-A of First Revised Volume No. 1 and 53-C and 78-C of Original Volume No. 2 are being submitted to reflect the Computation of Current Month Unrecovered Purchased Gas Cost on an annual, as opposed to a six month accrual period, in order to conform to the Commission's Regulations as set forth in Order 483.

Great Lakes states Sixteenth Revised Sheet Nos. 57(i) and 57(ii) and Third Revised Sheet No. 57(v) reflect a purchased gas cost surcharge resulting from maintaining unrecovered purchased gas cost accounts for the period commencing March 1, 1988 and ending June 30, 1988. These surcharge rates are to be effective for the four month period commencing November 1, 1988, in accordance with the Commission's policy requiring the amortization of deferred gas costs over a similar period of time as the deferrals accumulated, as stated in the Transition Rules of Order 483 and section 154.310 of the Commission's rate effective for the period of March 1, 1989 through October 31, 1989. Also reflected on these tariff sheets are revised current PGA rates for the months of November and December, 1988 and January, 1989 which reflects the latest estimated gas costs as provided by Great Lakes' sole supplier of natural gas, TransCanada Pipelines Limited.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests in Docket No. TA89-1-51-000 should be filed on or before October 4, 1988, and all such motions or protests in Docket No. TM89-1-51-000 should be filed on or before September 19, 1988. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21083 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-557-000]

Koch Hydrocarbon Co.; Petition for Declaratory Order or Application for Certification

September 12, 1988.

Take notice that on August 22, 1988,[1] Koch Hydrocarbon Company (Koch), 4111 East 37th Street North, Wichita, Kansas 67220, filed in Docket No. CP88-557-000 a petition for a declaratory order pursuant to Rule 207 of the Rules of Practice and Procedure of the Commission (18 CFR 385.207) requesting that the Commission determine and

[1] The petition for declaratory order was tendered for filing on July 11, 1988; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until August 22, 1988. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

declare that it has no jurisdiction over a proposed pipeline to be constructed and operated by Koch in the State of North Dakota. Koch contends that the proposed facilities are gathering facilities and are therefore, exempt from the certificate requirements of section 7(c) of the Natural Gas Act.

Koch states that it operates a gas gathering system which is connected to over 500 wells located in the States of North Dakota and Montana. Koch further states that the gas that is gathered through such system is processed at its McKenzie plant located in North Dakota. Koch indicates that the outlet of the plant is connected to the pipeline facilities of Williston Basin Interstate Pipeline Company (Williston).

Koch states that beginning in 1983, Williston refused to purchase and accept delivery of all of the gas processed and tendered to it at the McKenzie plant. Koch further states that, currently, Williston refuses to purchase any gas from the plant. Accordingly, Koch proposes to construct and operate a pipeline from the tailgate of the McKenzie plant to a point of interconnection on the pipeline system of Northern Border Pipeline Company (Northern Border) in North Dakota to establish an additional first sale point for the gas processed at the McKenzie plant.

Koch states that the proposed facilities would consist of approximately 31 miles of 12.75-inch O.D. pipeline and would have a capacity of 45,000 Mcf of gas per day. Koch further states that it would retain title to all gas tranported through the proposed pipeline until it reaches the Northern Border interconnection, at which point the gas would be sold and the proceeds distributed, the same as if the gas had been sold at the McKenzie plant tailgate. Koch contents that the proposed facilities perform a gathering function under the "primary function" test set forth in *Farmland Industries, Inc.* 23 FERC ¶ 61,063 (1983).

Alternatively, in the event the Commission concluded that the proposed facilities and transactions involved are jurisdictional, Koch requests the issuance of a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act which authorizes the construction and operation of the proposed line.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 3, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21084 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-5-000]

Midwestern Gas Transmission Co.; Tariff Filing and Rate Filing Pursuant to Tariff Rate Adjustment Provisions

September 12, 1988.

Take notice that on September 1, 1988, Midwestern Gas Transmission Company (Midwestern), tendered for filing ten copies of the following tariff sheets to its FERC Gas Tariff proposed to be effective November 1, 1988:

Original Volume No. 1

Thirty-Third Revised Sheet No. 6

Midwestern states that the purpose of this filing is to implement a Purchased Gas Adjustment (PGA) rate adjustment applicable to Midwestern's Northern System Rate Schedules CR-2, CRL-2, SR-2 and I-2 to be effective November 1, 1988.

Midwestern states that the current Adjustment reflected on Thirty-Third Revised Sheet No. 6 consist of a negative adjustment of $.29 to the Demand Rate (D-1) for Rate Schedules CR-2 and CRL-2, a negative adjustment of $.0238 to the Commodity Rate for Rate Schedule SR-2, a negative adjustment of $.0095 to the Commodity Rate for Rate Schedule I-2, and a positive adjustment of $.1245 to the Gas Rate. Thirty-Third Revised Sheet No. 6 also reflects a Surcharge for Amortizing the Unrecovered Gas Cost Account for the Northern System, consisting of a negative demand surcharge of $.43 per Dkt and a negative gas surcharge of $.3187 per Dkt.

Midwestern states that copies of this filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21085 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-1-5-000 and TM89-2-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

September 12, 1988.

Take notice that on September 1, 1988, Midwestern Gas Transmission Company (Midwestern) filed Thirty-Ninth Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff, to be effective October 1, 1988.

Midwestern states that the purpose of the filing is to reflect a PGA rate adjustment for its Southern System for the quarterly period of October through December and to institute a surcharge to amortize unrecovered gas costs accumulated October 1, 1987 through March 31, 1988 over the period October 1, 1988 through March 31, 1989. Midwestern is also filing Alternate Thirty-Ninth Revised Sheet No. 5 in the event the Commission denies Midwestern's motion requesting a waiver of the transitional rules of the new PGA Regulations requested in a separate filing. Midwestern has revised the Annual Charge Adjustment to reflect the new ACA charge.

Midwestern states the Purchased Gas Cost Rate Adjustments reflected on Thirty-Ninth Revised Sheet No. 5 consists of a .2554 cents per dekatherm applicable to the gas component of Midwestern's sales rates, a ($.07) per dekatherm adjustment applicable to the Demand D_1 component and a (.0003) cents per dekatherm adjustment applicable to the Demand D_2 component of Midwestern's rates. The surcharge to amortize unrecovered gas costs of a (31)

cent per dekatherm demand surcharge and a 2.04 cent gas rate surcharge.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers on its Southern System and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 19, 1988. 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21086 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-1-78-000]

Overthrust Pipeline Co.; Tariff Filing

September 12, 1988.

Take notice that on September 1, 1988, Overthrust Pipeline Company (Overthrust), pursuant to 18 CFR 154.38(d)(6) and Part 382, tendered for filing and acceptance Sixth Revised Sheet No. 6 ot its FERC Gas Tariff, Original Volume No. 1.

Overthrust states that this filing implements the annual charge unit rate of $0.0018 per Mcf in each of its transportation rate schedules. Overthrust requests an effective date of October 1, 1988, for the tendered tariff sheet.

Copies of the filing were served upon Overthrust's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21087 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-1-36-000]

Questar Pipeline Co.; Tariff Filing

September 12, 1988.

Take notice that on September 1, 1988, Questar Pipeline Company (Questar Pipeline), pursuant to 18 CFR 154.38(d)(6) and Part 382, tendered for filing and acceptance Sixteenth Revised Sheet No. 12 to First Revised Volume No. 1, Sixth Revised Sheet No. 5 to Original Volume No. 1-A and Ninth Revised Sheet No. 8 to Original Volume No. 3 of its FERC Gas Tariff.

Questar Pipeline states that this filing implements the annual charge unit rate of $0.0018 per Mcf in each of its transportation and sales rate schedules. Questar Pipeline requests an affective date of October 1, 1988, for the tendered tariff sheets.

Copies of the filing were served upon Questar Pipeline's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21088 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-1-8-000 and TM89-1-8-000]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

September 12, 1988.

Take notice that on September 1, 1988, South Georgia Natural Gas Company ("South Georgia") tendered for filing Forty-Eighth Revised Sheet No. 4 and Fourth Revised Sheet No. 34A to its FERC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed with a proposed effective date of October 1, 1988, pursuant to the Purchased Gas Cost Adjustments provision set out in Section 14 of South Georgia's FERC Gas Tariff.

South Georgia states that Forty-Eighth Revised Sheet No. 4 reflects a revenue decrease of approximately $14,000 resulting from a decrease of $1.684 in the D-1 component of South Georgia's rates, a decrease of $.1476 and $.0540, respectively, in the D-2 component for the G-1/I-1 and G-2/I-2 Rate Schedules, and an increase of $.5124 per MMBtu in commodity gas cost from South Georgia's annual PGA filing in Docket No. TA88-3-8-000.

South Georgia states that its Current Adjustment reflects an increase in the rates of its primary pipeline supplier, Southern Natural Gas Company, which are proposed to become effective October 1, 1988 in Docket No. TQ89-1-7-000.

South Georgia further states that Fourth Revised Sheet No. 34A reflects a decrease of .03¢ per Mcf in the Annual Charge Adjustment from the current level of .21¢ per Mcf to a new level of .18¢ per Mcf as recently authorized by the Commission in Docket No. RM87-3-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure §§ 385.214, 385.211). All such motions or protests should be filed on or before September 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21089 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. T089-1-7-000 and TM89-1-7-000]

Southern Natural Gas Co; Proposed Changes to FERC Gas Tariff

September 12, 1988.

Take notice that on September 1, 1988, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1:

Eighty-First Revised Sheet No. 4A

Tenth Revised Sheet No. 4B

Fourth Revised Sheet No. 45M

Southern states that the proposed tariff sheets and supporting information are being filed with a proposed effective date of October 1, 1988, pursuant to the Purchased Gas Adjustment clause of its FERC Gas Tariff.

Southern further states that its proposed tariff sheets reflect a change in its Current Adjustment to be in effect from October 1, 1988, through December 31, 1988, consisting of an increase in Southern's commodity gas costs of approximately 37.5¢ per Mcf and a decrease in Southern's demand costs of 25.4¢ per Mcf in Zone 1, 77¢ per Mcf in Zone 2 and 104.1¢ per Mcf in Zone 3. Southern's proposed tariff sheets also reflect a decrease of .03¢ per Mcf in the ACA charge effective October 1, 1988.

Copies of Southern's filing were served upon all of Southern's jurisdictional purchases and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures §§ 385.214, 385.211). All such motions or protests should be filed on or before September 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21090 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-58-000]

Texas Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

September 12, 1988.

Take notice that on September 1, 1988, Texas Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), the below listed tariff sheets to be effective November 1, 1988.

Twenty-Second Revised Sheet No. 4a

TGPL states that the purpose of the instant filing is to reflect rate adjustments pursuant to Section 12 of the General Terms and Conditions to TGPL's Tariff (Purchased Gas Cost Adjustments). Specifically, Twenty-Second Revised Sheet No. 4a reflects a net increase in the rate after cumulative adjustment to 175.82¢/Mcf with a rate Surcharge Adjustment of 9.04¢/Mcf yielding a proposed total rate of 214.33¢/Mcf (at 14.65 psia) to be effective November 1, 1988.

Copies of the filing were served upon TGPL's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 4, 1988. 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 in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21091 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP88-29-000]

Total Minatome Corp.; Petition for Declaratory Order

September 12, 1988.

Take notice that on August 11, 1988, Total Minatome Corporation (TMC), an independent gas producer, filed a petition for declaratory order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.

TMC purchased the stock of CSX Oil and Gas Corporation (CSX), also a producer of natural gas, effective April 27, 1988. TMC states that prior to its acquisition of CSX, CSX was a party to gas sales contracts with numerous pipelines executed before June 23, 1987. In the opinion of TMC, several of the pipelines did not fulfill their purchase obligations under these contracts with the result that CSX accrued take-and/or-pay claims. TMC states that these pre-June 23, 1987 contracts and the related claims are now the property of TMC, hereinafter referred to as "the CSX Properties".

TMC states that, in addition, TMC sells gas produced from properties that were owned by TMC prior to its purchase of CSX, and from properties that have been acquired by TMC since its purchase of CSX. At least some of these sales are made under pre-June 23, 1987 contracts with some of the same interstate pipelines with whom CSX had pre-June 23, 1987 take-or-pay contracts. TMC also transports gas from these properties over the same pipelines. Moreover, TMC may sell to or transport on these pipelines gas from properties that TMC may acquire in the future.

TMC requests issuance of a declaratory order as to whether interstate pipelines transporting gas produced from the TMC's properties not acquired from CSX may or may not apply take-or-pay credits offered by TMC under Order No. 500 against the pipelines' take-and/or-pay obligations arising under pre-June 23, 1987 contracts covering the CSX Properties. Similarly, TMC requests that the Commission remove any uncertainty as to whether interstate pipelines transporting gas produced from the CSX properties may or may not apply Order No. 500 take-or-pay credits against the pipelines; take-and/or pay obligations arising under pre-June 23, 1987 contracts covering the TMC's properties not acquired from CSX.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington,

DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before October 12, 1988. Protests will be considered by the Commission in determinig the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21092 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-11-000]

United Gas Pipe Line Co.; Tariff Filing of Revised Tariff Sheets

September 12, 1988.

Take notice that on September 1, 1988, United Gas Pipe Line Company (United) tendered for filing to its FERC Gas Tariff.

First Revised Volume No. 1

Eighty-Second Revised Sheet No. 4
Eighty-Second Revised Sheet No. 4(A)
First Revised Sheet No. 4.1
First Revised Sheet No. 4.1(A)

United States the proposed effective date for the tariff sheets is October 1, 1988. The above referenced tariff sheet is being filed pursuant to §§ 154.304 and 154.308 of the Commission's regulations to reflect the changes in the purchased gas cost adjustment provisions contained in Section 19 of United's FERC Gas Tariff, Original Volume No. 1.

United States the tariff sheets are being filed to reflect a Current Adjustment of $(0.3439).

United States that the revised tariff sheet and supporting data are being mailed to its jurisdictional sales customers and to interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE, Washington, DC 20426, in such accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such motions of protest should be filed on or before September 1, 1988. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and an available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21093 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-1-49-000]

Williston Basin Interstate Pipeline Co.; Annual Charge Adjustment Filing

September 12, 1988.

Williston Basin Interstate Pipeline Company (Williston Basin), on September 1, 1988, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1

Fourteenth Revised Sheet No. 10

Original Volume No. 1-A

Tenth Revised Sheet No. 11
Thirteenth Revised Sheet No. 12

Original Volume No. 1-B

Third Revised Sheet No. 10
Third Revised Sheet No. 11

Original Volume No. 2

Sixteenth Revised Sheet No. 10
Eighth Revised Sheet No. 11B

The proposed effective date of the tariff sheets is October 1, 1988.

Williston Basin states that the filing changes the Federal Energy Regulatory Commission Annual Charge Adjustment (ACA) amount in its tariffs pursuant to § 154.38(d)(6)(i) of the Commission's Regulations and the Commission's Statement of Annual Charges (18 CFR Part 382). The filing incorporates an ACA surcharge of 0.180 cents per Mcf (0.170 cents per dkt on the Williston Basin system), a reduction of .03 cents per Mcf from the current amount, as authorized by the Commission.

Williston Basin further states that the instant filing incorporates the revisions currently pending before the Commission in Docket Nos. TA88-3-49, TA88-4-49, RP88-197 and RP88-236, plus the proposed revision to the ACA surcharge.

Any person desiring to be heard or to protest said tariff application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426, in accordance with the Commission's Rules 211 and 214. All such motions or protests should be filed on or before September 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21094 Filed 9-14-88; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of June 6 Through June 10, 1988

During the week of June 6 through June 10, 1988, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Matthew A. Evangelista, 6/8/88; HFA-0311

Matthew A. Evangelista filed an Appeal from a partial denial by the Director, DOE Office of Classification, of a request for information submitted under the Freedom of Information Act. On review, the OHA adopted the determination of the Office of Policy and Program Operations that some of the information previously withheld under Exemption 1 (national security) should now be released to Evangelista because the withheld material has been determined to be unclassified.

Motion for Discovery

Economoc Regulatory Administration, 6/10/88; KRD-0032, KRZ-0032

The Economic Regulatory Administratin (ERA) filed a Motion for Discovery and a Motion to Amend the Record relating to a Proposed Remedial Order (PRO) which the ERA issued to Gear Petroluem Company, Inc. (Gear Petroleum). In the PRO, the ERA seeks to recover overcharges in the sale of crude oil by Gear Petroleum because of the alleged misapplication of the "Newly Discovered Crude Oil Price Rule." In the Motion for Discovery, the ERA sought information concerning a drill stem test performed at a well drilled by Gear Petroleum at its Finnup A-1 property in late 1978. In the Motion to Amend the Record, the ERA sought to substitute

affidavits concerning well testing activities at Finnup A-1.

In considering the Motion for Discovery, the Office of Hearings and Appeals (OHA) determined that, as generally required by the discovery regulations, the ERA could have filed its requested discovery at the time it filed its Response to Gear Petroleum's Statement of Objections. For this reason, OHA denied the discovery as being untimely. OHA also found that the ERA's requested discovery would unduly delay the proceeding because it could have obtained the information it sought during the evidentiary hearing granted in *Gear Petroleum Co.*, 16 DOE ¶ 84,016 (1986). OHA stated, however, that if the evidentiary hearing did not resolve the factual issues raised by the ERA's discovery, OHA would allow the ERA to renew its motion or may grant the discovery *sua sponte*.

In considering the Motion to Amend the Record, OHA found that the new affidavit only highlighted information already in the record and applied the affiant's expert knowledge to those facts. In addition, OHA found there would be no prejudice to Gear Petroleum in accepting the new affidavit. Therefore, the affidavit substitution was allowed. Because of this substitution, OHA allowed Gear Petroleum to cross-examine the affiant at the evidentiary hearing and to submit a list of witnesses to address the factual issues discussed in the new affidavit.

Refund Applications

Aminoil U.S.A. Inc./Saber Petroleum Marketing Company, et al., 6/6/88; RR139-1, et al.

The DOE issued a Decision and Order concerning nine Motions for Reconsideration filed by firms that were denied refunds under the spot purchaser presumption in the Aminoil U.S.A., Inc. special refund proceeding. In considering the firms' motions, the DOE found that during the prior proceeding each applicant firm had been given a specific opportunity to submit material to rebut the spot purchaser presumption before the initial Decision and Order was issued, but had failed to do so. Moreover, the DOE found that the firms were represented by an experienced attorney and, therefore, cannot be excused for their failure to respond to the DOE's requests for additional information. Therefore, the DOE determined that the firms' Motions for Reconsideration be denied.

City of Bluffton Utilities, et al., 6/7/88; RF272-9619, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds for 10 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various activities, and each determined its claim either by consulting actual purchase records or by a reasonable method of estimation. Each applicant was an end-user of the products it claimed and was therefore presumed injured. The sum of the refunds granted in this Decision is $2,004. All of the claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Delmar Rigdon et al., 6/10/88; RF272-6337 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds for 74 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various agricultural activities, and each determined its claim either by consulting actual purchase records or by estimating its consumption based on the acres it farmed. Each applicant was an end-user of the petroleum products it claimed and was therefore presumed injured. The sum of the refunds granted in this Decision is $2,293. All of the claimants will be eligible for additional crude oil overcharge funds become available.

Dorchester Gas Corp./Rash Oil Company, 6/10/88; RF253-49

The DOE issued a Decision and Order granting an Application for Refund in the Dorchester Gas Corporation refund proceeding. Rash Oil Company (Rash) was an indirect purchaser of Dorchester covered products during the consent order period. Rash purchased propane from Phillips Petroleum Company (Phillips) and gasoline from Cimarron Valley, Inc. (Cimarron). Both Phillips and Cimarron were direct purchasers of Dorchester product and both received a refund in the Dorchester refund proceeding. Rash was eligible for 79.5642 percent of its allocable share for its propane purchases because the DOE had previously determined that this was the amount available for distribution to Phillips' downstream customers. Rash was eligible for the full volumetric refund amount for its indirect purchases of gasoline because the direct purchaser, Cimarron, elected to limit its refund to the small claims threshold. Because Cimarron was not required to submit proof of injury, the DOE found it most equitable to presume that Rash was overcharged in its gasoline purchases by the full volumetric amount. Rash's allocable share for its propane purchases was $5,331, and its allocable share for its gasoline purchases was $4,316. However, since Rash elected to limit its refund to the established $5,000 threshold amount, the firm was not required to submit a detailed proof of injury. The total amount of the refund involved in this Decision is $6,878, representing $5,000 in principal and $1,878 in interest.

Herbert H. Moore, Edward Pagel, 6/10/88; RF272-2433, RF272-2481

The DOE issued a Decision and Order granting two Applications for Refund from crude oil overcharge funds. The two claimants were farmers who used sales receipts to determine the number of gallons of petroleum products they used during the period August 19, 1973 through January 27, 1981. When calculating the amount of grease used during this period, however, each Applicant used pounds rather than gallons as the standard measure. Accordingly, the DOE converted the pounds of grease to gallons and added this converted figure of each Applicant's gallonage. Each applicant was an end-user of the products it claimed and was therefore presumed injured. The sum of the refunds granted in this Decision is $49. Both claimants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Howard Oil Co., Inc./Bayside Fuel Oil Depot Corp., 6/10/88; RF286-5

The DOE issued a Decision and Order granting in part an Application for Refund filed by Bayside Fuel Oil Depot Crop. in the Howard Oil Co., Inc. special refund proceeding. Bayside's documented purchase volumes were sufficient to qualify the firm for a refund greater than the $5,000 small claims threshold, but the firm elected to limit this claim to $5,000 in lieu of making a detailed showing of injury. Accordingly, Bayside received a total refund of $6,278, representing $5,000 in principal and $1,278 in interest.

Indianapolis Newspapers, Inc. et al., 6/10/88; RF272-5155 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 10 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various business related activities, and each determined its claim either by consulting actual purchase records or by estimating its consumption. The DOE

determined that each method of estimation was acceptable for purposes of this refund proceeding. Each applicant was an end-user of the products it claimed and was therefore presumed injured. The sum of the refunds granted in this Decision is $2,671.

Lewis Bros. Farms, et al., 6/8/88; RD272-1384, et al.

The DOE issued a Decision and Order granting seven Applications for Refund from crude oil overcharge funds based on the Applicants' purchases of refined petroleum products from August 19, 1973, through January 27, 1981. Each applicant estimated its petroleum purchases by multiplying the number of acres it farmed and/or head of livestock it raised by the corresponding average annual petroleum product consumption rate among the nation's farmers, as estimated by the U.S. Department of Agriculture. The DOE determined that the Applicants should be presumed injured because each was an end-user of the gallons it claimed. The refunds granted in this Decision total $502.

Mobil Oil Corp./General Motors Corporation, 6/8/88; RF225-10008 et al.

The DOE issued a Decision and Order granting an Application for Refund from the Mobil Oil Corporation consent order fund filed by the General Motors Corporation (GM). GM was an end-user of Mobil refined petroleum products during the Mobil consent order period, and presented evidence to prove that it purchased its refined petroleum products directly form Mobil. The firm had records showing its total expenditures for Mobil products during the consent order period, and, using Energy Information Agency (EIA) retail motor gasoline price per gallon figures, was able to estimate the total gallons purchased from Mobil. According to the methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), GM was found to be eligible for a refund from the Mobil consent order fund. However, the firm's total estimate was reduced to account for: (i) Purchases of products after their respective dates of decontrol; (ii) incorrect EIA price per gallon figures; and (iii) ineligible volumes purchased prior to March 6, 1973. Based on the volume of its purchases times 100 percent of the volumetric refund amount, the DOE granted GM a refund of $58,803 ($47,183 principal plus $11,620 interest).

Mobil Oil Corp./Hughes Oil Company, 6/10/88; RF225-8780

The DOE issued a Decision and Order granting an Application for Refund from the Mobil Oil Corporation escrow account filed by Hughes Oil Company, a reseller of Mobil refined petroleum products. In the Mobil proceeding, an applicant may choose to either rely on the presumptions set forth in Mobil Oil Corp., 13 DOE ¶ 85,339 (1985), or it may choose to submit documentation demonstrating that it was injured to a greater extent than the average reseller. Hughes elected to submit additional documentation in an effort to demonstrate injury. Applying the competitive disadvanatage analysis to the data submitted by Hughes, the DOE determined that the firm purchased its motor gasoline at prices higher than the average market prices. The DOE determined that Hughes was therefore eligible to receive the full volumetric refund amount for its purchases of Mobil motor gasoline. Accordingly, Hughes was granted a refund of $62,040, representing $49,781 in principal and $12,259 in interest.

Mobil Oil Corp./Jerry O'Brien; Hawkins Cove Oil Corp., 6/10/88; RF225-6781, RF225-6778, RF225-6779

Jerry O'Brien (O'Brien) and Hawkins Cove Oil Corp. (Hawkins) filed applications for refund from the Mobil Corporation escrow account. The DOE determined that O'Brien and Hawkins were spot purchasers of Mobil products. O'Brien and Hawkins failed to rebut the presumption that they were not injured as a result of their purchases. Accordingly, the firms' applications were denied.

Mobil Oil Corp./Jim Traughber Oil Co., 6/8/88; RF225-9384, RF225-9385, RF225-9386, RF225-9387

The DOE issued a Decision and Order granting in part an Application for Refund from the Mobil Oil Corporation escrow account filed by Jim Traughber Oil Co., a reseller of Mobil refined petroleum products. In the Mobil proceeding, applicants may choose to either rely on the presumption set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985) (*Mobil*), or they may choose to submit documentation demonstrating that they were injured to a greater extent than the average reseller. In the case of Traughber, the firm elected to submit additional documentation in an effort to rebut these presumptions and demonstrate injury. The DOE, however, did not accept the approximated banks of unrecouped increased product costs submitted by Traughber as the first part of an injury showing. The DOE found that the May 1973 profit margin, based on the profit made by the firm as a Mobil consignee, was not a suitable basis for the firm's approximated banks. In *Mobil*, however, applicants who are unable to rebut the presumptions of injury and who did not conclusively demonstrate that they were injured are eligible for a refund nonetheless. The DOE therefore reviewed the present application and determined that all necessary information had been provided for a refund under the level-of-distribution injury presumption. Accordingly, the Application for Refund was granted. The total amount approved in the Decision and Order was $5,124, representing $4,111 in principal plus $1,013 in interest.

Mobil Oil Corp./Jim's Mobil, 6/8/88; RF225-7595

The DOE issued a Decision and Order granting an Application for Refund from the Mobil Oil Corporation escrow account filed by Jim's Mobil, a retailer of Mobil refined petroleum products. Jim's elected to apply for a refund based upon the presumption set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). After determining that Jim's estimates of its purchases volumes accurately reflected its actual purchases from Mobil, the DOE granted the firm a refund of $415, representing in principal plus $82 in interest.

Mobil Oil Corp./Kahale Walid et al., 6/10/88; RF225-4209 et al.

The DOE issued a Decision and Order granting applications filed by six purchasers of Mobil refined petroleum products in the Mobil Oil Corp. special refund proceeding. According to the procedures set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), each applicant was found to be eligible for a refund based on the volume of products it purchased from Mobil. The total amount of refunds approved in this Decision was $10,959, representing $8,793 in principal plus $2,166 in accrued interest.

Mobil Oil Corp./Silver Oil Co., Inc. 6/8/88; RF225-8771

The DOE issued a Decision and Order granting an Application for Refund filed by Silver Oil Co., Inc. in the Mobil Oil Corp. special refund proceeding. *See Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). Silver, a retailer of refined petroleum products, attempted to rebut the level-of-distribution injury presumption for its purchases of Mobil motor gasoline in order to receive a full volumetric refund of $30,772. After examining the firm's cost banks and applying a three-part competitive disadvantage test, the DOE concluded that Silver should receive a refund of $20,529 on its motor gasoline purchases, representing $16,472 in principal and $4,057 in accrued interest.

National Helium Corp./Ohio, 6/7/88; RF3-104, RQ3-452

The DOE issued a Decision and Order approving the Motion for Modification and second-stage refund application filed by the State of Ohio in the National Helium Corp. refund proceeding. Ohio will use an additional $40,981.62 for the Furnace Retrofit Program, which helps low-income residents improve the efficiency of their oil heating systems. The State will also add $41,875 to the Energy Auditor Training Program, which trains auditors who will provide free energy audits to low and moderate income residents. Ohio requested an additional $511.59 for these programs; the rest will come from reduced funding levels for a previously-approved program. The DOE found that the programs will help injured consumers reduce their residential fuel consumption. Accordingly, Ohio's requests were approved.

Pyrofax Gas Corporation/Godwin Gas Company, 6/6/88; RF277-70

The DOE issued a Decision and Order concerning an Application for Refund filed by Godwin Gas Company (Godwin) in the Pyrofax Gas Corporation special refund proceeding. Godwin submitted cost banks in excess of its refund claim and market price comparison material in support of a refund of more than $5,000. After examining Godwin's application and supporting documentation, the DOE concluded that the firm should receive a refund of $34,858, representing $18,531 in principal and $16,327 in interest.

Richardson Ayres Jobber, Inc./SOS Truck Stop, Inc., 6/9/88; RF281-1

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of SOS Truck Stop, Inc. (SOS) in the Richardson Ayres Jobber, Inc. (Ayers) special refund proceeding. SOS applied for a refund based on the procedures outlined in *Richardson Ayres Jobber, Inc.*, 13 DOE ¶ 85-368 (1986), governing the disbursement of settlement funds received from Ayres pursuant to a September 29, 1981 Consent Order. Because SOS was a retailer that limited its claim to $5,000, the firm was presumed to have been injured by Ayres' alleged overcharges. After examining the application and supporting documentation submitted by SOS, the DOE granted the firm a refund of $8,879, representing $5,000 in principal and $3,879 in accrued interest.

Supradur Companies, Inc. 6/10/88; RF 272-3463

The DOE issued a Decision and Order granting an Application for Refund from crude oil overcharge funds based on the Applicant's purchase of refined petroleum products from August 19, 1973, through January 27, 1981. To estimate its total purchase volume, the Applicant extrapolated from actual figures that were available for four years of the price control period. The DOE determined that the Applicant should be presumed injured because it was an end-user of the gallons claimed. The refund granted in this Decision is $345.

Vickers Energy Corporation/Arkansas, 6/8/88; RQ1-456

The DOE issued a Decision and Order approving a second-stage refund application submitted by the State of Arkansas in the Vickers Energy Corp. special refund proceeding. *See Vickers Energy Corp.*, 12 Doe ¶ 85,164 (1985). Since the pending Vickers litigation has been resolved, the DOE determined that the Vickers funds previously granted to Arkansas could now be disbursed to the State. Accordingly, the DOE granted Arkansas a total of $1,295 ($773 in principal plus $522 in interest) for use in the energy conservation promotion projects previously approved by the DOE.

Vickers Energy Corporation/Wisconsin 6/8/88; RQ1-454

The DOE issued a Decision and Order approving a second-stage refund application submitted by the State of Wisconsin in the Vickers Energy Corp. special refund proceeding. *See Vickers Energy Corp.*, 12 Doe ¶ 85,164 (1985). Since the pending Vickers litigation has been resolved, the DOE determined that the Vickers funds previously granted to Wisconsin could now be disbursed to the State. Accordingly, the DOE granted Wisconsin a total of $304 ($182 in principal plus $122 in interest) for use in the Rental Energy Conservation Incentives Program approved by the DOE.

Dismissals

[The following submissions were dismissed:]

Name	Case No.
California Fuels, Inc.	RF238-51.
ERA/Ragsdale	KRZ-0080.
Glen Milner	KFA-0189.
Gottman Oil Co.	RF225-8951.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guildelines*, a commercially published loose leaf reporter system.

September 7, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88-21111 Filed 9-14-88; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Period of June 20 Through July 1, 1988

During the period of June 20 through July 1, 1988, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection with the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issuance of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

September 7, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Froseth Service and Supply Company, Garretson, South Dakota; KEE-0162

The Froseth Service and Supply Company filed an Application for Exception for relief from the reporting

requirements of 10 CFR 205.55(b)(2). The exception request, if granted would permit the firm to discontinue filing Form EIA-782B. On June 28, 1988, the Department of Energy issued a Proposed Decision and Order, which determined that the exception request be denied.

[FR Doc. 88-21112 Filed 9-14-88; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Mableton Broadcasting Co., Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and state	File No.	MM Docket No.
A. Mableton Broadcasting Company, Inc.; Mableton, GA.	BPH-870706ML	88-400
B. Gonzales Broadcasting, Inc.; Mableton, GA.	BPH-870707MJ	
C. Bolton Broadcasting, Limited; Mableton, GA.	BPH-870720MD	
D. Voth Broadcasting Limited; Mableton, GA.	BPH-870710MF	
E. Stephen H. Thomas d/b/a Republic Broadcasting; Mableton, GA.	BPH-870710MK	
F. Rochelle Lucas d/b/a Carpenter Broadcasting; Mableton, GA.	BPH-870710ML	
G. Tri.City FM Limited Partnership; Mableton, GA.	BPH-870710MN	
H. Radio Mableton Limited; Mableton, GA.	BPH-870710MT	
I. Cobb Broadcasters, Inc.; Mableton, GA.	BPH-870710MX	
J. Metropolitan Management Corp.; Mableton, GA.	BPH-870710MY	
K. Lorenzo Jelks; Mableton, GA.	BPH-870710MZ	
L. QRW Partners, Limited Partnership; Mableton, GA.	BPH-870710NF	
M. Golden Eagle Broadcasting, Inc.; Mableton, GA.	BPH-870710NH	
N. Rainbow Broadcasting, Inc.; Mableton, GA.	BPH-870710NI	
O. Mableton Communications Co.; Mableton, GA.	BPH-870710NK	
P. Hairston Broadcasting Partnership; Mableton, GA.	BPH-870710NO	
Q. Mableton Broadcast Limited Partnership; Mableton, GA.	BPH-870710NP	
R. Mableton Communications, Limited; Mableton, GA.	BPH-870710NQ	
S. Radio Communications, Inc.; Mableton, GA.	BPH-870710MI, (Previously Dismissed).	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 F.R. 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant

Issue Heading and Applicants

1. Environmental, I, P
2. Cross-Interest Policy, R
3. Comparative, A-R
4. Ultimate, A-R

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW, Washington, DC 20037. (Telephone (202) 857-3800.)

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-21077 Filed 9-14-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[Notice No. 6, September 12, 1988]

Federal Savings and Loan Advisory Council Meeting

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Federal Savings and Loan Advisory Council. Notice of the meeting is required under the Federal Advisory Committee Act.

DATE(S): October 5, 1988, 9:00 a.m.-5:00 p.m.; October 6, 1988, 9:00 a.m.-11:30 a.m.

ADDRESS: Hotel Washington, 15th and Pennsylvania Ave., NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: John M. Buckley, Jr., (202) 377-6577 Debra J. Ahearn (202) 377-6924

SUPPLEMENTARY INFORMATION:

Proposed agenda

1. Thrift Industry concerns.
2. Major Legal Issues.
3. Emerging Issues for the Thrift Industry.
4. Investment Banking and Thrift Institutions.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 88-21110 Filed 9-14-88; 8:45 am]

BILLING CODE 6720-01-M

[No. 88-959-A]

Brokered Deposits; American Savings, a Federal Savings and Loan Association

September 12, 1988.

AGENCY: Federal Home Loan Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board ("Board") is supplementing an earlier resolution concerning American Savings and Loan Association, Stockton, California ("American"), to provide that an authorization of the acceptance of brokered deposits by American would be provided for American Savings, a Federal Savings and Loan Association, to which substantially all of the assets and liabilities of American were transferred by the Federal Savings and Loan Insurance Corporation as receiver for American.

EFFECTIVE DATE: September 12, 1988.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Hayes, Deputy General Counsel for FSLIC, (202) 377-6428; Deborah Dakin, Regulatory Counsel, Regulations and Legislation Division, Office of General Counsel, (202) 377-6445; or Deborah E. Siegel, Attorney, Office of General Counsel, (202) 377-6848; Federal Home Loan Bank Board,

1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Board has adopted the following resolution, Board Resolution 88-959:

Whereas, the Federal Home Loan Bank Board ("Board") by its Resolution No. 88-924, dated September 5, 1988, appointed the Federal Savings and Loan Insurance Corporation ("Corporation") as receiver ("Receiver") for American Savings and Loan Association, Stockton, California ("American"), and pursuant to an Acquisition Agreement, dated September 6, 1988, between the Receiver and American Savings, a Federal Savings and Loan Association ("American Federal"), the Receiver transferred substantially all of the assets and liabilities of American to American Federal, all as more fully set forth in such Acquisition Agreement; and

Whereas, the Board has previously adopted Resolution No. 87-616 regarding the acceptance of brokered deposits by American up to a maximum limit of $2.5 billion of total deposits (the "Brokered Deposit Resolution"); and

Whereas, the Board desires to supplement the Brokered Deposit Resolution (which supplementation the Board does not consider to be an amendment or rescission of such Resolution) to take into account the transfer of American's assets and liabilities to American Federal, and to provide the same authorization to American Federal as was provided to American:

Now, therefore, the Board resolves as follows:

1. All references in the Brokered Deposit Resolution to "American" and "American Savings" shall also be references to American Federal.

2. Upon their adoption by the Board, these resolutions shall be effective as of September 12, 1988.

3. The Secretary of the Board shall forward these resolutions for publication in the **Federal Register.**

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-21095 Filed 9-14-88; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Capital Directions; Application To Engage De Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 6, 1988.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Capital Directions,* Mason, Michigan; to engage *de novo* through its subsidiary Monex Financial Services, Inc., Mason, Illinois, in making, acquiring, or servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-20985 Filed 9-14-88; 8:45 am]

BILLING CODE 6210-01-M

Ohio Bancorp, 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 office 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 7, 1988.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Ohio Bancorp,* Youngstown, Ohio; to acquire 100 percent of the voting shares of The Mingo National Bank of Mingo Junction, Mingo Junction, Ohio.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *The Page Holding Company,* Plankinton, South Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers & Merchants State Bank; Plankinton, South Dakota.

C. Federal Reserve Bank of Kansas City, Missouri 64198:

1. *Wyandotte Ban Corporation,* Kansas City, Kansas; to acquire 100 percent of the voting shares of the Edwardsville Bank, Edwardsville, Kansas.

Board of Governors of the Federal Reserve System, September 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-20984 Filed 9-14-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Problems of the Underclass; Applications for Grants

Pursuant to section 1110A of the Social Security Act, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications for research in the area of income security policy from States, public, non-profit, and for-profit organizations.

A. Type of Application Requested

This announcement seeks applications for projects to develop testable theoretical models relating to national policy concerns in the area of problems of the underclass. Applications should focus on research issues in the area of economic and sociological determinants of underclass behaviors and the effects of underclass neighborhoods on residents; other, closely related issues may also be included if they are shown to be relevant to the general area of interest.

Clearly, there are many possible definitions of the term "underclass", and all applications should state the definition or concept being used. A broad range of methodologies is acceptable for the purpose of this grant competition, and researchers are encouraged to pursue new and innovative thinking. However, all proposed projects should embody a sound theoretical base upon which new and original empirical work could be based in the future. Models which do not lend themselves to empirical testing are unacceptable. In addition, demonstration projects, data collection, and empirical research will not be funded at this time, although it is possible that continuation funds may be awarded to test the theories developed under this grant program without further competition. All applicants must demonstrate knowledge of past and current research relating to the problems of the underclass and neighborhood effects.

Successful applicants must be willing to participate in an ASPE-sponsored conference in Washington, DC, to be held in the fall or winter of 1989. The conference will serve as a forum for discussions of important issues concerning the underclass, and will enable researchers to share their results with others.

Recent research on welfare dependency has indicated that there may be a significant correlation between neighborhood characteristics and individual behavior, often identified as socalled underclass behavior. Underclass behavior is not easily defined, but is usually thought to encompass various observable individual behaviors, such as high school drop-out rates, teenage pregnancy frequencies, welfare dependency measures, criminal activity, widespread drug use, unemployment, and poverty indicators. There can be little doubt that a careful examination of the data will reveal significant correlations between neighborhood variables and various indicators of underclass behavior. However, statistical models that estimate such correlations are not useful for a deeper understanding of the dynamics of underclass behavior and the influence of neighborhoods on individual choices. Purely statistical models cannot distinguish between competing hypotheses and do not offer any guidance regarding the underlying causes for observed individual behavior. On the other hand, carefully specified structural models, that is, models that are specified by some underlying theory, can often be used to distinguish between competing theories which are observationally equivalent. The development of theoretical models on the underclass and neighborhood effects is important to enhance our understanding of human behavior.

One central development necessary for understanding observed behavior is the creation of a theory about how neighborhoods and residents of a neighborhood constrain the choices and behaviors of individuals in that neighborhood. While we know something about how to model individual behavior, we know virtually nothing about how individuals interact to determine neighborhood behavior. While individuals may pattern their behavior after others in the community, individuals still make choices. Hence, the connection between poor neighborhood role models and individual outcomes can be broken by individual choices. Not all individuals follow the role models they are exposed to, whether they are good or bad. Parents and other authority figures in bad neighborhoods often offer good role models, yet the bad models in some instances dominate, while in others they do not. An individual can choose to reject poor role models, just as he can reject good ones.

Many people believe that the frequency of underclass behavior has increased in the United States over the last 25 years. If any policy is to be successful in reversing this trend, it is crucial that we gain an understanding of what has caused the deterioration of many neighborhoods. Since the outcome measures we are concerned about (e.g. welfare dependence, teenage pregnancy) describe individual behavioral patterns, it is important that we attempt to understand the influences of group behavior (the neighborhood) on the individual. As noted above, individuals have a choice of whether to comply with certain local social norms. To some degree, there is also a choice of where to live—those who reject local social norms can and often do move. At the same time, the pressure on individuals to accept even self-destructive behavioral norms can sometimes be very strong. Conceptually, neighborhood norms for social interaction seem to be "chosen constraints"—an individual accepts compliance with underclass norms even when alternative exists and it is obvious that the norms are risky or clearly self-destructive.

This grant announcement seeks to encourage the development of structural models that can be useful in explaining the causes for the growing incidence of underclass behavior. In general, we are interested in how neighborhoods and neighborhood residents influence individuals' behavior, especially those neighborhoods where underclass behaviors are widespread. Theoretical models that could be used to answer questions such as the following would be helpful:

(1) Why do some residents of underclass neighborhoods choose poor role models, while others manage to seek out beneficial role models?

(2) Why do some residents eschew underclass behaviors and manage to get out of the ghetto while others become trapped?

(3) When ghetto residents attempt to "maximize their utility", what types of constraints do they face? What choices do they have?

(4) What happens to groups of individuals who are "transplanted" to suburban settings, that is, those who move into housing projects or who are blended into middle class neighborhoods?

(5) What is the impact of public or private interventions? These examples are meant only as illustrations of interesting questions and are by no means exhaustive. There are many other worthwhile questions that could be answered by developing and testing the appropriate structural models. Because the policy recommendations obtained by testing these models are the ultimate goal, it is important that the models be

structured in such a way that they lead to testable empirical implications, and that the applications indicate how the models might be tested.

1. Products

The applicant should present a schedule for delivery of interim progress reports and a final report. The final report should discuss possible data sources for testing the model, and if new data collection would be needed, the report should so state.

2. Potential Users

Potential users of the research include policymakers at Federal, State, and local levels of government, as well as professionals in social services, demography, economics, sociology, social work, and related fields. Because many of those who will be interested in this research lack advanced technical training, it is important that the results of projects be presented in a fashion accessible to such an audience. This will involve the submission of a separate, non-technical executive summary.

3. Types of Projects Excluded

In consideration of the intent of this announcement, application concentrating on a narrow programmatic or policy focus, or on one that is not directed to concerns of national interest, will not be considered for funding.

In addition, this announcement seeks development of theoretical models of underclass behavior that can provide testable hypotheses for future empirical analysis. Applications for projects involving empirical analysis, data collection, or demonstrations will not be considered.

4. Content and Organization of the Applications

The application must begin with a cover sheet followed by the required application forms and an abstract (of not more than two pages) of the application. Failure to include the abstract may result in delays in processing the application. Each application should include a discussion of the relevant literature, a statement of the issue(s) being examined, the probable direction model development will take, a discussion of some of the likely hypotheses that the model will explain, and a discussion of possible data sources to test the hypotheses. Resumes of staff should be included, as should a full budget and a schedule of tasks for the proposed projects.

B. Applicable Regulations

1. "Grants Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), *Code of Federal Regulations*, October 1, 1980.

2. "Administration of Grants" (45 CFR Part 74), *Code of Federal Regulations* on June 9, 1981.

C. Effective Date and Duration

1. The grants awarded pursuant to this announcemnt are expected to be made on or about January 3, 1989; however some may be made subsequent to this date.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. The closing dates for applications are specified in Section F and G below.

3. It is expected that projects will be completed within a nine-month peirod. Longer projects will not be considered as the grantees are expected to present their results at an ASPE-sponsord conference in the fall or winter of 1989.

D. Statement of Funds Available

1. $200,000 has been set aside for grants to be awarded in Fiscal Year 1989, subject to the availability of appropriated funds, as a result of this announcement. Applications may be for any amount, but it is expected that most awards will be for single projects of no more than $50,000.

Applicants are encouraged to seek additional funds from other sources for this project. Applicants should discuss any commitments, plans, or hopes for additional funds, including size and sources. When it is judged that successful completion of a proposed project depends on outside funding, this office's funding commitment will be made contingent on complete demonstration of that outside funding.

2. Funds may be obligated fully at the time of award of these grants or incrementally.

3. Nothing in this application should be construed as committing the Assistant Secretary to make any award.

E. Application processing

1. Applications will be initially screened for relevance to the needs defined in section A (as well as additional areas of interest persuasively shown to be relevant by the grantee). If judged relevant, the applicaiton will then be reviewed by a government review panel, possibly augmented by outside experts. *Three (3) copies* of each application are required. Applicants are encouraged to send an additional *seven (7) copies* of their application to ease processing, but applicants will not be penalized if these extra copies are not included.

2. Applications will be judged as to eligibility, quality, and relevance, according to the criteria set forth in item 5.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with the information requirements of the reviewers. Applications should be limited to 25 doubled-spaced typed pages, exclusive of forms, abstract, resumes, and proposed budget; they should neither be unduly elaborate nor contain voluminous supporting documentation.

5. *Criteria for Evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parentheses.

a. *Usefulness.* The potential usefulness of the objectives and anticipated results of the proposed project for providing individuals and organizations concerned with problems of the underclass with improved bases for making decisions about these issues. The potential usefulness of the proposed project for the advancement of science. (25 points)

b. *Clarity and Understanding.* Understanding and knowledge of prior work in the area. The cost effectiveness of the proposal and the clarity of statement of objectives, methods, and anticipated results. (15 points)

c. *Modeling Strategy.* The appropriateness and soundness of the research design and modeling strategy. Probability of successful completion of the study. (30 points)

d. *Experience and Qualifications of Personnel.* Principal Investigator's and other key staff's experience in this or related areas and indications of innovative approaches and creative potential. Indication of the ability of key staff to produce publishable quality reports or articles. (30 points)

F. Applications Sent by Mail

Applications may be sent by either the U.S. Postal Service or a commercial carrier. Applications sent by U.S. Postal Service will be considered to be received on time by the Grants Officer if the application was sent by first class, registered or certified mail not later than November 14, 1988, as evidenced by the U.S. Postal Service postmark on the

wrapper or envelope, or on the original receipt from the U.S. Postal Service. Applications sent by a commercial carrier will be considered to be received on time by the Grants Officer if sent not later than November 14, 1988, as evidenced by a receipt from the commercial carrier.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between 9:00 am and 4:30 pm, Washington, D.C., time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close-of-business on November 15, 1988.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application as a whole or in part; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to the contact person listed in block 4 of the application to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of applications should be requested from and submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 426F, Hubert H. Humphrey Building, Washington, DC 20201, Phone (202) 245-1794. Questions concerning the preceding information should be submitted to the Grants Officer at the same address. Neither questions nor requests for applications should be submitted after November 1, 1988. *IMPORTANT*—Application for Federal Assistance (Standard Form 424) must be submitted on new form revised 4/88.

J. Federal Domestic Assistance Catalog

This announcement is not listed in the Federal Domestic Assistance Catalog.

K. Intergovernmental Review of Federal Programs

This program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs" or its implementing regulations 45 CFR Part 100.

Date: September 12, 1988.

Robert B. Helms,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 88-21062 Filed 9-14-88; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Program Announcement and Availability of Fiscal Year 1988 Funds for Development and Initiation of a National Risk Communication Training Program for State Health Agency Personnel

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of funds in Fiscal Year 1988 to assist in developing and implementing a National Risk Communication Training Program for State Health Agency Personnel.

Authority

This project is authorized by section 104(i) (1) and (14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604(i) (1) and (14)]. The Catalog of Federal Domestic Assistance number is 13.161.

Eligibility

This is not a formal request for applications. Assistance will be provided only to the Association of State and Territorial Health Officials (ASTHO) for this project. No other applications will be solicited or will be accepted.

The Association of State and Territorial Health Officials (ASTHO) is an organization that represents the chief public health official of each state and territory. Through its own membership, the ASTHO Environmental Committee, the Association of State and Territorial Health Risk Assessors, other affiliate organizations, and the Public Health Foundation, ASTHO has developed a unique knowledge and understanding of the needs and operations of State health agencies. The members of ASTHO have already gained an enormous wealth of experience in risk communication and have identified risk communication programs as a priority need for State health agencies.

No other organization has the established relationship with State health departments and the existing staff capability and expertise which is necessary to carry out the project.

Background

Public concern about environmental problems has placed growing demands in recent years for governmental agencies to provide information that is responsive to public fears and explains health risks clearly. Concerns about human exposures to toxic substances in the environment are usually very urgent and State and local health departments are often the first to be contacted. Often, the demand is for simple, immediate explanations to complex environmental problems, but the response is too often presented in technical and/or uncertain terms, as the agency works within its legal, scientific, and economic constraints to provide its best analysis of the situation.

Improved risk communication is important to focus public attention on risks that, from a scientific standpoint, pose the greatest threat to health, and to allay fears about risks that pose a lesser threat, or no apparent threat. Effective risk communication should improve the agency's credibility and success in conducting public health programs and community-level interventions.

Purpose

The proposed cooperative agreement is intended to address the need for State health agencies to practice effective risk communication. ASTHO will also develop approaches for disseminating information about effective risk communication.

ASTHO Activities

A. Define the common needs and priorities in the area of risk communication through the preparation of a descriptive report. The needs will be assessed by a survey of State and local health agencies and interview discussions with State officials with special expertise in communication of environmental health issues.

To the extent that ASTHO engages in information collection through surveys and interviews, there shall be no review of data collection instruments or the information collection design by ATSDR or another Federal agency. However, ASTHO may request technical consultation from ATSDR.

B. Conduct two pilot workshops to train State representatives. This training shall instruct the State representative

about proper methods of risk communication and also instruct them in how to further educate and train other health professionals in their jurisdictions. These workshops should use the training modules and manual developed in part C (below). A mechanism to evaluate the training process should be part of the workshop.

C. Define and develop any training materials necessary for its use in conducting the training described in B (above). The descriptive report and special expertise of the recipient will be the basis of defining the content and format of the training manual and training programs. These materials shall include modules used in workshops for risk communication training and a risk communication guidance manual for health professional field reference.

ATSDR Activities

A. Assist in the identification of areas of mutual interest in the area of risk communication.

B. Collaborate in the development of training materials and a risk communication guidance manual for the use by State officials.

C. Collaborate in the planning and implementation of the two pilot workshops.

Availability of funds

During Fiscal Year 1988, approximately $180,000 will be available to support this project. It is expected that the cooperative agreement will be funded for a 12-month budget/project period to begin on or about September 29, 1988. The funding estimate outlined above may vary and is subject to change.

Review and Evaluation Criteria

The application will be reviewed and evaluated on the following:

A. Extent to which the applicant understands the requirements, problems, objectives, complexities, and interactions required of this cooperative agreement;

B. Degree to which proposed objectives are clearly stated, realistic, measurable, time-phased, and related to the purpose of this project;

C. Degree to which the applicant provides evidence of an ability to carry out the proposed project and the extent to which the applicant institution documents demonstrated capability to achieve objectives similar to those of this project;

D. Extent to which professional personnel involved in this project are qualified, including evidence of past achievements appropriate to this project; and

E. Adequacy of plans for administering the project.

Application Submission and Deadline

The original and two copies of the application (SF 424) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grant Office, Centers for Disease Control, 255 East Paces Ferry, NE., Room 300, Atlanta, GA 30305.

Other Submissions and Review Requirements

Applications are not subject to review as governed by Executive Order 12372, Intergovermental Review of Federal Programs.

Where to Obtain Additional Information

Information regarding the business aspects of this project may be obtained from Terry C. Maricle, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, (404) 842-6575 or FTS 236-6575. Information regarding technical aspects of this project may be otained from Robert W. Amler, M.D., Medical Epidemiologist, Epidemiology and Medicine Branch, Office of Health Assessment, Agency for Toxic Substances and Disease Registry, Atlanta, Georgia 30333, (404) 488-4600 or FTS 236-4600.

Dated: September 9, 1988.

James O. Mason,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 88-21018 Filed 9-14-88; 8;45 am]

BILLING CODE 4160-70-M

Alcohol, Drug Abuse, and Mental Health Administration

October Advisory Committees; Meetings

AGENCY: Alochol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedules and proposed agendas of the forthcoming meetings of the agency's initial review committees in the month of October 1988. These committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee Name: Research Scientist Development Review Committee, NIMH.

Date and Time: October 3-5: 9:00 a.m.

Place: Holiday Inn of Georgetown, 2100 Wisconsin Avenue, NW., Washington, DC 20007.

Status of Meeting: OPEN—October 3: 9:00-10:00 a.m.; CLOSED—Otherwise.

Contact: Sandra Buckhalter, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6470

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Extramural Science Advisory Board, NIMH.

Date and Time: October 6-7: 9:00 a.m.

Place: National Institute of Mental Health, Parklawn, Building, Conference Room E, 5600 Fishers Lane, Rockville, MD 20857.

Status of Meeting: OPEN.

Contact: Lawrence J. Rhoades, Parklawn Building, Room 17C20, 5600 Fishers Lane, Rockville, MD 20857.

Purpose: The Board advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, on the direction, scope, balance, and emphasis of the Institute's extramural science programs.

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Committee Name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee, NIMH

Date and Time: October 6-8: 8:30 a.m.

Place: The Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814

Status of Meeting: OPEN—October 6: 8:30-9:30 a.m.; CLOSED—Otherwise.

Contact: Dorothy Tengood, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3857.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of

research and research training activities relating to understanding the impact of the social environment on the mental health of children and adults, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Cognition, Emotion, and Personality Research Review Committee, NIMH.

Date and Time: October 7–8: 9:00 a.m.

Place: The Carlyle Suites, 1731 New Hampshire Avenue, NW. Washington, DC 20009.

Status of Meeting: OPEN—October 7: 9:00–10:00 a.m.; CLOSED—Otherwise.

Contact: Shirley Maltz, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3944.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the fields of personality, cognition, emotion, and higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Psychopathology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and Time: October 12–14: 9:00 a.m.

Place: Congressional Days Inn, 1775 Rockville Pike, Rockville, MD 20852.

Status of Meeting: OPEN—October 12: 9:00–10:00 a.m.; CLOSED—Otherwise.

Contact: Emilie A. Embrey, Room 9C08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1340.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Heath for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Aging Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: October 13–14: 9:00 a.m.

Place: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814

Status of Meeting: OPEN—October 13: 9:00–9:30 a.m.; CLOSED—Otherwise.

Contact: Naomi Lichtenberg, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health in the fields of child, family, and aging, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH

Date and Time: October 13–14: 9:00 a.m.

Place: The Pavilion Hotel, 12000 Old Georgetown Road, Rockville, MD 20852.

Status of Meeting: OPEN—October 13: 9:00–10:00 a.m.; CLOSED—Otherwise.

Contact: Richard Marcus, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Behavioral Neurobiology Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and Time: October 13–15: 8:30 a.m.

Place: The Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 13: 8:30–9:30 a.m.; CLOSED—Otherwise.

Contact: Gerry Perlman, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral neurobiology, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Cellular Neurobiology and Psychopharmacology Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and Time: October 13–15: 8:30 a.m.

Place: The Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 13: 8:30–9:30 a.m.; CLOSED—Otherwise.

Contact: Gerry Perlman, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3944.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to cellular neurobiology and psychopharmacology, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: October 17–19: 9:00 a.m.

Place: The Georgetown Dutch Inn, 1075 Thomas Jefferson Street, NW., Washington, DC 20007–3861.

Status of Meeting: OPEN—October 17: 9:00–9:30 a.m.; CLOSED—Otherwise.

Contact: Ronald F. Suddendorf, Room 16C26, Parklawn Building, Rockville, MD 20857, (301) 443–6106.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

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Committee Name: Biobehavioral/Clinical Subcommittee of the Drug Abuse AIDS Research Review Committee, NIDA.

Date and Time: October 18–19: 9:00 a.m.

Place: Embassy II, The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 18: 9:00–9:30 a.m.; CLOSED—Otherwise.

Contact: Iris O'Brien, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities,

and makes recommendations to the National Advisory Council on Drug Abuse for final review.

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Committee Name: Sociobehavioral Research Subcommittee of the Drug Abuse AIDS Research Review Committee, NIDA.

Place: Embassy III, The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 18: 9:00–9:30 a.m.; CLOSED—Otherwise.

Contact: H. Noble Jones, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Biochemistry Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: October 18–20: 8:30 a.m.

Place: Georgetown Room, Days Inn Congressional Park, 1775 Rockville Pike, Rockville, MD 20852.

Status of Meeting: OPEN—October 18: 8:30–9:00 a.m.; CLOSED—Otherwise.

Contact: Rita Liu, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

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Committee Name: Drug Abuse Clinical and Behavioral Research Review Committee, NIDA.

Date and Time: October 18–21: 9:00 a.m.

Place: Montrose Room, Days Inn Congressional Park, 1775 Rockville Pike, Rockville, MD 20852.

Status of Meeting: OPEN—October 18: 9:00–9:30 a.m.

Contact: Daniel Mintz, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

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Committee Name: Drug Abuse Epidemiology and Prevention Research Review Committee, NIDA.

Date and Time: October 18–21: 8:30 a.m.

Place: Embassy I, The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 18: 8:30–9:30 a.m., CLOSED—Otherwise.

Contact: Raquel Crider, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

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Committee Name: Pharmacology Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: October 18–21: 8:30 a.m.

Place: Georgetown Room, Days Inn Congressional Park, 1775 Rockville Pike, Rockville, MD 20852.

Status of Meeting: OPEN—October 18: 8:30–9:00 a.m.; CLOSED—Otherwise.

Contact: Heinz Sorer, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

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Committee Name: Clinical Biology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and Time: October 19–21: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 19: 9:00–10:00 a.m.; CLOSED—Otherwise.

Contact: Maureen Eister, Room 9C08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1340.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Clinical Program Projects and Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 20–21: 9:00 a.m.

Place: The Pavilion Hotel, 12000 Old Georgetown Road, Rockville, MD 20852.

Status of Meeting: OPEN—October 20: 9:00–10:00 a.m.; CLOSED—Otherwise.

Contact: Richard Marcus, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: October 20–21: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 20: 9:00–10:00 a.m.; CLOSED—Otherwise.

Contact: Frances Smith, Room 9C02, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4868.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment, and makes recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Small Business Research Review Committee, NIMH.

Date and Time: October 24–25: 9:00 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, NW., Chevy Chase, MD 20857.

Status of Meeting: OPEN—October 24: 9:00–10:00 a.m.; CLOSED—Otherwise.

Contact: Bonnie Dwyer, Room 9C05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6470.

Purpose: The committee is charged with the initial review of applications requesting support from the National Institute of Mental Health for small businesses involved in mental health research. Final review and recommendations are made from the National Advisory Mental Health Council.

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Committee Name: Epidemiology Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH.

Date and Time: October 24-26: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 24: 9:00-10:00 a.m.; CLOSED—Otherwise.

Contact: Gloria Yockelson, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-1367.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Criminal and Violent Behavior Research Review Committee, NIMH.

Date and Time: October 26-27: 9:15 a.m.

Place: American Inn of Bethesda, 8130 Wisconsin Avenue, 8130 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 26: 9:15-10:00 a.m.; CLOSED—Otherwise.

Contact: Peg Lyons, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3857.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to the mental health aspects of criminal, delinquent, and antisocial behavior; individual violent behavior; sexual assault; and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Psychobiology and Behavior Research Review Committee, NIMH.

Date and Time: October 27-28: 9:00 a.m.

Place: The Carlyle Suites, 1731 New Hampshire Avenue, NW., Washington, DC 20009.

Status of Meeting: OPEN—October 27: 9:00-10:00 a.m.; CLOSED—Otherwise.

Contact: Doris East, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3936.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Health Council for final review.

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Committee Name: Mental Health Behavioral Sciences Research Review Committee, NIMH.

Date and Time: October 27-29: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: OPEN—October 27: 9:00-10:00 a.m.; CLOSED—Otherwise.

Contact: Cathy Oliver, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3936.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities relating to behavioral science areas relevant to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

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Committee Name: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: October 29-30: 8:30 a.m.

Place: Bahia Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Status of Meeting: OPEN—October 29: 8:30-9:30 a.m.; CLOSED—Otherwise.

Contact: Thomas D. Sevy, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6106.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

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Committee Name: Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: October 29-30: 8:30 a.m.

Place: Bahia Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Status of Meeting: OPEN—October 29: 8:30-9:30 a.m.; CLOSED—Otherwise.

Contact: Lenore Sawyer Radloff, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6106.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

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Substantive information, summaries of the meetings, and rosters of committee members may be obtained as follows: Ms. Diana Widner, NIAAA Committee Management Officer, Room 16C-20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4375; Ms. Camilla Holland, NIDA Committee Management Officer, Room 10-42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-2620; Ms. Joanna Kieffer, NIMH Committee Management Officer, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Date: September 9, 1988.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 88-21059 Filed 9-14-88; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Meeting of the National Committee on Vital and Health Statistics

ACTION: Notice of Meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics Subcommittee on Ambulatory

Care Statistics established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following meeting.

Name: National Committee on Vital and Health Statistics Subcommittee on Ambulatory Care Statistics.

Time and Date: 10:00 am–5:00 pm, October 3, 1988.

Place: Hubert H. Humphrey Building, Room 337A–339A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to continue the review and revision of the Uniform Ambulatory Medical Care Minimum Data Set.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: September 9, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–21019 Filed 9–14–88; 8:45 am]

BILLING CODE 9160–18–M

Food and Drug Administration

[Docket No. 88N–0197]

Submission of Drug Applications to the Food and Drug Administration Using Computer Technology

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) believes the increased use of computers may improve the efficiency of the drug application review process. This notice is intended to facilitate the use of computers in the drug approval process by giving drug sponsors and other interested parties guidance on the factors FDA considers in accepting computer assisted new drug applications (CANDA's). This notice also identifies topics drug sponsors should be prepared to discuss with FDA before submitting CANDA's. Although this notice deals primarily with the use of computer technology in new drug application (NDA's) and antibiotic applications, the policies described also apply to investigational new drug applications (IND's) and abbreviated new drug applications (ANDA's).

DATE: Comments should be submitted on or before March 14, 1989.

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

FOR FURTHER INFORMATION CONTACT:

About the submission and contents of CANDA's:

Robert A. Bell, Center for Drug Evaluation and Research (HFD–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0845.

For information about this notice contact: Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8046.

SUPPLEMENTARY INFORMATION: FDA must approve any new drug before it may be marketed in the United States. As part of the approval process, the sponsor of a new drug must submit to FDA's Center for Drug Evaluation and Research (CDER) large quantities of data about the safety and efficacy of its product. The original application for a new drug ordinarily includes thousands of pages of reports, analyses, tabulations, and case reports. These data are carefully reviewed by CDER.

A continuing goal of FDA is to improve the speed and quality of the drug review program. The agency views computer technology as a promising means of making the new drug application review process more efficient. Reflecting this assessment, FDA's long-range plans commit CDER to continue to explore the use of computer technology to enhance the timeliness, effectiveness, and efficiency of the drug review process and reduce burdensome, nonessential hard-copy handling. This notice is intended to provide guidance to those considering the submission of a computer assisted new drug appliction.

I. Agency Experience With CANDA's

CDER has received a limited number of CANDA's to date. These applications have been developed both by drug manufacturers and by third party vendors and consultants. They reflect a variety of strategies and technical approaches, using different software and hardware. Data have been located both at remote sites, accessed by telecommunications, and at FDA.

CDER's experience with CANDA's has not been sufficiently extensive to permit it to draw conclusions about the degree to which CANDA's will ultimately improve the efficiency of the drug approval process, nor to allow conclusions about the superiority of one technical approach to another. The agency's experience does, however, allow CDER to conclude that data from case report forms and tabular listings can be effectively retrieved and reviewed using computer technology and that further exploration of the use of CANDA's should be encouraged. The agency will continue to cooperate with interested sponsors and urges sponsors to explore new systems and technologies. CDER is also interested in promoting the exchange of information on CANDA's that will not infringe on property rights.

II. Guidance on Submission of CANDA's

CANDA's can be defined as any method using computer technology to improve the transmission, storage, retrieval, and analysis of data submitted to FDA as part of the drug development and marketing approval process. Computer technology may be applied to IND's NDA's ANDA's, and antibiotic applications.

CDER has developed the following guidance for sponsors of drug applications:

1. CDER encourages drug sponsors to explore the use of CANDA's. Drug sponsors considering the use of CANDA's should contact Robert A. Bell, Director, Office of Management (address above).

2. A drug sponsor intending to submit a CANDA is encouraged to discuss its plans with CDER's Office of Management to identify and resolve potential problems involved in filing a CANDA. In particular, sponsors should be prepared to discuss possible logistical problems involved in the installation of computer equipment. If a drug sponsor proposes to meet with FDA to discuss an application for a specific drug product, CDER participants in such a preliminary discussion will ordinarily include scientific personnel from the review division that will have responsibility for review of the application. Other reviewers in CDER having experience with CANDA's may also be consulted.

3. CANDA's may be developed by the sponsor or a third party. In its initial discussion with FDA, the sponsor should identify the developer of the CANDA. Because of limited resources, reviewing divisions will provide detailed consultation on the development of CANDA's only in the course of their ordinary regulatory discussions with sponsors. The reviewing divisions are not in a position to offer assistance directly to third party vendors who are not currently working with a sponsor

involved in obtaining FDA marketing approval of a drug or drugs (i.e., those whose intention is to develop and market data processing methodology for use by drug sponsors). Such third party vendors should contact Robert A. Bell (address above) for information on CANDA's.

4. A drug sponsor should be prepared to discuss the following additional aspects of its proposed CANDA with CDER:

a. *General characteristics of the proposed application, including the methods and data files to be used.* CDER is interested in the method used to store data.

b. *Computer hardware requirements.* Computers used at FDA may not be compatible or available for a specific requirement. If FDA's equipment is not available, the sponsor should make appropriate arrangements for the agency to gain access to the data.

c. *Computer software considerations.* In selecting software, a sponsor should consider the overall requirements of analysis and data retrieval in the review process, the availability of software at FDA, and the ease of operation for the reviewer. The sponsor should state what program language, and/or data base system, is being used.

d. *Plans for CDER reviewer orientation and training.* Orientation and training should include instructing reviewers in the use of the computer hardware, data file content and structure, and retrieval routines. Sponsors should also be prepared to provide continuing technical support and advice to reviewing personnel.

5. Filing of a CANDA is conditional on the reviewing division's willingness to accept the application in the CANDA format used by the sponsor. For this reason it is important that the acceptability of the proposed CANDA be established, to the degree it is possible, well in advance of the submission, before substantial effort has been expended.

6. The submission of a CANDA will not influence the priority given to an application. CDER has written policies regarding the factors that affect the priority given to the review of an application. In general, review priority is based on CDER's classification of a new drug product under the IND/NDA classification system (see Food and Drug Administration, "Staff Manual Guide: Center for Drugs and Biologics," Guide No. 4820.3).

7. Currently, the submission of a CANDA will generally not affect the required submission of an application in paper form. Future development of CANDA procedures should result in the reduction of the amount of paper required to be filed, especially with respect to case report forms and tabular listings.

III. Comments

Interested persons are encouraged to submit comments and suggestions regarding CANDA's. FDA requests comments that will help it develop an overall CANDA policy, rather than comments that propose adoption of specific equipment, systems, computer programs, and services. However, FDA is also interested in learning about new computer hardware, systems, and programs that have a particular applicability to the drug approval process.

Interested persons may, on or before March 14, 1989, submit written comments and other communications related to this notice to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is not an offer to buy nor a solicitation of offers to sell any product or service. Non-FDA participants in current experiments are utilizing their own resources, and this arrangement is expected to continue for the foreseeable future.

Dated: September 4, 1988.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 88-21053 Filed 9-14-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88M-0281]

Sharpoint; Premarket Approval of Sharpoint Polypropylene Suture, Nonabsorbable Surgical Suture, U.S.P. (Clear or Blue)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Sharpoint, Reading, PA, for premarket approval under the Medical Device Amendments of 1976, of the Sharpoint Polypropylene Suture, Nonabsorbable Surgical Suture, U.S.P. (clear or blue). After reviewing the recommendation of the General and Plastic Surgery Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of July 21, 1988, of the approval of the application.

DATE: Petitions for administrative review by October 17, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kevin J. Crossen, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION: On February 1, 1988, Sharpoint, Reading, PA 19608, submitted to CDRH an application for premarket approval of the Sharpoint Polypropylene Suture, Nonabsorbable Surgical Suture, U.S.P. (clear or blue). The device is indicated for use in all types of soft tissue approximation, including ophthalmic surgery, but not in cardiovascular surgery, microsurgery, and neural tissue. The device is available in sterile packets in U.S.P. sizes 10-0 through 2.

On June 24, 1988, the General and Plastic Surgery Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 21, 1988, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

In the **Federal Register** of April 25, 1985 (50 FR 16227), FDA published a final regulation listing the color additive [phthalocyaninato(2-)]copper (21 CFR 74.3045) for use in coloring polypropylene nonabsorbable surgical sutures. The use of [phthalocyaninato(2-)]copper in coloring the Sharpoint Polypropylene Suture, Nonabsorbable Surgical Suture, U.S.P. (blue) conforms to the color additive listing requirements specified in the regulation.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH. Contact Kevin J. Crossen (HFZ-410), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 17, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 7, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88–21055 Filed 9–14–88; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting:

Los Angeles District Office, chaired by George J. Gerstenberg, District Director. The topic to be discussed is new drug development and other current issues.

DATE: Thursday, September 29, 1988, 10 a.m. to 12 m.

ADDRESS: 1521 West Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213–252–7597.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 12, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–21052 Filed 9–14–88; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, the "Medicare HMO/CMP Beneficiary Reconsideration System (MBRS)," HSS/HCFA/OPHC 09–70–4003. We have provided background information about the system in the "Supplementary Information" section below. HCFA invites public comments by October 17, 1988 with respect to the routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Administator, Office of Information and Regulatory Affairs, Executive Office of Management and Budget (EOMB), on September 12, 1988, pursuant to paragraph (b) of Appendix I to EOMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730). In accordance with paragraph 4(b)(4) of this same Circular, we are requesting a waiver from EOMB of the 60–day advance notice requirement. Therefore, in the absence of a denial of the waiver by EOMB, the new system of records including routine uses will become effective October 12, 1988, unless HCFA receives comments which would necessitate alterations to the system.

ADDRESS: The public should address comments to Richard A. DeMeo, Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, Room G–M–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Ronald Boardley, Office of Qualification, Office of Prepaid Health Care, Health Care Financing Administration, Room 4360 HHS Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201, telephone: (202) 245–0234, or Jack Egan, Office of Qualification, Office of Prepaid Health Care, Health Care Financing Administration, Room 4360 HHS Cohen Building, 330 Independence Avenue, SW., Washington, DC. 20201, telephone: (202) 245–0772.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Privacy Act of 1974, the Health Care Financing Administration (HCFA) is proposing to initiate the Medicare HMO/CMP Beneficiary Reconsideration System (MBRS). This system will maintain records on reconsideration requests made by or on behalf of Medicare beneficiaries enrolled in health maintenance organizations (HMOs) and competitive medical plans (CMPs) under contract with HCFA.

The reconsideration procedure is part of the beneficiary appeals process established under the Medicare HMO/CMP regulations (42 CFR 417.600 et seq.). Under this procedure, a Medicare enrollee of an HMO or CMP has the right to request a reconsideration by HCFA of an organization's decision to deny a service requested by the enrollee or to deny payment for a service furnished to the enrollee. The MBRS system will provide an effective means of tracking the progress and resolution of these reconsiderations.

The Office of Prepaid Health Care (OPHC) intends to secure the services of an impartial, independent contractor to reconsider denial determinations and to

perform the necessary administrative functions associated with this activity. The contractor will accordingly be responsible for maintaining the proposed MBRS system of records. The system established by the contractor will be integrated into and will complement other monitoring and oversight activities of OPHC, HCFA, and the Department. As with similar systems, the system will serve important program evaluation and program integrity purposes in addition to its tracking function.

The system notice sets forth several routine uses for the MBRS system. The Privacy Act permits the disclosure of individual-specific information in a system of records without the consent of the subject individual if the disclosure is for a "routine use", that is, for a purpose compatible with the purposes for which the information was collected. Proposed routine use no. 4, providing for disclosure of records to third persons where necessary to verify information presented by the beneficiary or beneficiary representative, and proposed use no. 5, providing for disclosure of records to appropriate entities in connection with certain investigations or litigation, are each compatible with the prupose of the MBRS system to maintain the integrity and effectiveness of the Medicare HMO/CMP program. The remaining routine uses proposed for the MBRS system are standard routine uses included in all of HCFA's other record systems.

The contractor operating the MBRS system will be subject to the requirements of the Privacy Act (5 U.S.C. Section 552a(m)) and will be required to obtain authorization from HCFA prior to releasing beneficiary-specific information. Such authorizations will be determined on an individual case-by-case basis. We anticipate that disclosures under the routine uses will not result in unwarranted adverse effects on personal privacy.

Dated: September 12, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

09-70-4003

SYSTEM NAME:

Medicare HMO/CMP Beneficiary Reconsideration System (MBRS).

SYSTEM LOCATION:

Health Care Financing Administration, Office of Prepaid Health Care, Room 4360 HHS Cohen Building, Washington, DC 20201.

Contractor (to be selected).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Medicare beneficiary who is or has been enrolled in a health maintenance organization (HMO) or competitive medical plan (CMP) and who has requested a reconsideration appeal by HCFA, or any persons who act on behalf of these beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in the record includes the following:

1. Beneficiary Name and/or Name of Beneficiary Representative and Addresses.
2. Health Insurance Claim (HIC) Number.
3. Health Plan Name and Address.
4. Health Plan Number.
5. Beneficiary Medical Records and Statement of Facts.
6. Claims Data: Date Claim Received by Health Plan, Date(s) of Service.
7. Routine Items: Beneficiary Enrollment Form and Disenrollment Request, Verification of Enrollment HMO Status, Date Reconsideration Request Submitted to HCFA, Date(s) of Determination(s) by Plan and HCFA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established under the authority of Section 1876 of the Social Security Act (42 U.S.C. 1395mm).

PURPOSE(S):

To keep account of reconsiderations requested by or on behalf of Medicare HMO/CMP enrollees and to promote the effectiveness and integrity of the Medicare HMO/CMP program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosures may be made:

1. To a Congressional office in response to an inquiry from that office at the request of the subject individual.
2. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) HHS or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components:

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. To a Contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

4. To a third party where:

(a) HCFA needs information from the third party to verify information presented by the beneficiary or beneficiary representative relating to the beneficiary's entitlement to benefits, the amount of reimbursement, or a similar question;

(b) the individual is unable to provide the information sought by HCFA, i.e., there is a reasonable basis to conclude that the individual is of questionable mental capability, cannot read or write, cannot communicate due to a language barrier, or lacks access to information, or that some similar circumstance exists;

(c) the party to whom disclosure is to be made has, or is reasonably expected to have, information to assist the individual and disclosure is needed in order to obtain this information; and

(d) HCFA determines that the purpose of disclosure is compatible with the purposes for which the records were collected.

5. To a State Insurance Commissioner or other state regulator with similar authority, Peer Review Organization (PRO), Quality Review Organization (QRO), or an entity under contract to HCFA or the Department acting in a manner consistent with maintaining the integrity of the Medicare program, if HCFA determines that disclosure of beneficiary—specific information is necessary or relevant to an official investigation or litigation regarding a specific case, and if HCFA determines:

(a) That the use or disclosure of information does not violate legal limitations under which the record was provided, collected, or obtained;

(b) That the purpose for which disclosure is to be made:

(1) is compatible with the purposes for which the records were collected;

(2) Cannot be reasonably accomplished unless the record is

provided in individual identifiable form; and

(3) Is of sufficient importance to warrant any effect on the privacy of the individual that disclosure of the record might bring;

(c) That adequate safeguards have been instituted so as to protect the confidentiality of the data and prevent unauthorized access to it; and

(d) That the appropriate procedures, format, and media will be used for the data disclosure process.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained at each of the system location sites in magnetic media (e.g., magnetic tape and computer discs) and in paper form.

RETRIEVABILITY:

The data in this system are retrieved by beneficiary name, health insurance claim (HIC) number, health plan, or record number.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the Department of HHS' Information Resources Management Manual, "Part 6, Automated Information Systems Security". This includes maintaining the records in a secure enclosure.

Access to specific records is limited to those who have a need for them in the performance of their official duties.

Paper records are maintained in locked files in buildings which are secured after normal business hours.

RETENTION AND DISPOSAL:

Records are maintained on-line in the system from the date of inquiry until two years after the final response is released.

SYSTEM MANAGER AND ADDRESS:

Project Officer, Medicare HMO/CMP Beneficiary Reconsideration System, Office of Prepaid Health Care, Health Care Financing Administration, Room 4360, HHS Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the system manager at the address indicated above or to the HMO Coordinator at the appropriate regional office (see Appendix A), and specify beneficiary name, HIC number, and health plan.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should reasonably specify the information in the records being sought. You may also request an accounting of disclosures that have been made of your records, if any. These procedures are in accordance with Departmental Regulations (45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the system manager named above and reasonably identify the record and specify the information to be contested, state the corrective action sought and your reasons for requesting the corrections, along with information to show how the record is inaccurate, incomplete, untimely, irrelevant, or otherwise in need of correction. These procedures are in accordance with Departmental Regulations (45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

The identifying information contained in these records is obtained from the reconsideration requests made by or on behalf of Medicare beneficiaries and from inquiries from the following sources: congressional office, the Health Plan, HCFA Central Office, Social Security Administration, providers; Medicare Intermediary/Carrier, State Insurance Commissioner/State Regulator, Disenrollment Survey, and all others. The paper record includes the original incoming reconsideration request or inquiry, any supporting documentation obtained during the investigation process, and the final response.

The magnetic tape record or computer disc record will only include information to be compiled in data base (e.g., name, dates associated with the reconsideration request or inquiry resolution, type of inquiry) and will not include any descriptive data items.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A.—Health Care Financing Administration, Regional Offices

I BOSTON, HMO Coordinator, Room 1309, JFK Federal Building, Boston, Massachusetts 02203

II NEW YORK, HMO Coordinator, Room 3811, 26 Federal Plaza, New York, New York 10278

III PHILADELPHIA, HMO Coordinator, 3535 Market Street, P.O. Box 7760, Philadelphia, Pennsylvania 19101

IV ATLANTA, HMO Coordinator, Suite 701, 101 Marietta Tower, Atlanta, Georgia 30323

V CHICAGO, HMO Coordinator, Suite A-835, 175 W. Jackson Boulevard, Chicago, Illinois 60604

VI DALLAS, HMO Coordinator, Room 2000, 1200 Main Tower Building, Dallas, Texas 75202

VII KANSAS CITY, HMO Coordinator, New Federal Office Building, Room 235, 601 East 12th Street, Kansas City, Missouri 64106

VIII DENVER, HMO Coordinator, Federal Building, Room 574, 1961 Stout Street, Denver, Colorado 80294

IX SAN FRANCISCO, HMO Coordinator, 14th Floor, 100 Van Ness Avenue, San Francisco, California 94102

X SEATTLE, HMO Coordinator, Mail Stop 502, 2901 Third Avenue, Seattle, Washington 98121

[FR Doc. 88-20971 Filed 9-14-1988; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1988:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 2-4, 1988, 9:00 a.m.

Place: Maryland Room, Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857.

Open on November 2, 1988, 9:00 a.m.-10:00 a.m. Closed for remainder of meeting

Purpose: To review research grant applications in the program area of maternal and child health administered by the Bureau of Health Care Delivery and Assistance.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Maternal and Child Health Program Coordination and Systems Development, who will report on program issues, Congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 2, at 10:00 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Pub. L. 92-463.

Anyone requiring information regarding the subject council should contact Gontran Lamberty, Dr.Ph.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6-17, Parklawn Building, 5600 Fishers Lane, Rockville,

Maryland 20857, Telephone (301)443-2190.

Agenda Items are subject to change as priorities dictate.

Date: September 12, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88-21058 Filed 9-14-88; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Advisory Commission on Childhood Vaccines; Request for Nominations for Voting Members

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is requesting nominations for nine voting members to serve on the Advisory Commission on Childhood Vaccines.

DATES: The Charter for the Commission will be effective July 21, 1988 and will expire July 20, 1990, unless the Secretary formally determines that renewal is in the public interest. Nominations should be received on or before October 15, 1988.

ADDRESS: All nominations for membership should be submitted to Robert E. Windom, M.D., Assistant Secretary for Health and Director, National Vaccine Program, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Alan R. Hinman, M.D., Coordinator, National Vaccine Program, at (301) 443-0715.

SUPPLEMENTARY INFORMATION: Under the authorities that established the Advisory Commission on Childhood Vaccines, viz., the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and 42 U.S.C. 300aa-19, Section 2119 of the Public Health Service Act, as added by Public Law 99-660 and amended by Pub. L. 100-203, PHS is requesting nominations for nine voting members of the Commission.

The Commission will avise the Secretary on the Implementation of the National Vaccine Injury Compensation Program; on its own initative or as the result of the filing of a petition, recommend changes in the Vaccine Injury Table, advise the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions; survey Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirments of section 2125(b), and advise the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines; and recommend to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Three persons named to the Commission shall be selected from health professionals who have expertise in the health care of children, the epidemiology, etiology, and prevention of childhood diseases, and the adverse reactions associated with vaccines (of whom at least two shall be pediatricians); three members shall be selected from the general public of whom at least two shall be legal representatives of children who have suffered a vaccine-related injury or death; and three members shall be selected who are attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death, and of whom one shall be an attorney whose specialty includes representation of vaccine manufacturers. The term of office is three years, except that initial appointments will be staggered to permit an orderly rotation of membership

Interested persons may nominate one or more qualified persons for membership on the Advisory Commission. Nominations shall state that the nominee is willing to serve as a member of the Commission and appears to have no conflict of interest that would preclude Commission membership. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

The Department has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory bodies and therefore extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates.

Dated: September 8, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88-21061 Filed 9-14-88; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-010-08-4410-12:GP8-242]

Meeting; Lakeview District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a meeting of the Lakeview District Advisory Council.

SUMMARY: The Lakeview District Advisory Council will meet Thursday, September 29, 1988. The meeting will begin at 10:00 a.m. in the Lakeview District Conference Room at 1000 South Ninth, Lakeview, Oregon.

The meeting is being held to allow the Council to make a formal recommendation to the District Manager on the draft Warner Lakes Plan Amendment for Wetlands and Associated Uplands.

DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Public Affairs Officer (503) 947-2177.

Terry Sodorff,

Acting District Manager.

[FR Doc. 88-20975 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-33-M

[NV-030-08-4333-13]

Nevada Off-Road Vehicle Designations, Designation Order NV-03-8801; Supersedes Designation Order NV-03-8301

September 6, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decisions.

SUMMARY: All public lands administered by the Bureau in the Carson City District, Nevada, are designated open, limited or closed to off-road motorized vehicle use.

EFFECTIVE DATE: September 15, 1988.

FOR FURTHER INFORMATION CONTACT: John Matthiessen, Walker Area Manager, or Mike Phillips, Lahontan Area Manager, Bureau of Land Management, 1535 Hot Springs Road,

Suite 300, Carson City, Nevada, 89701; (702) 882-1631.

SUPPLEMENTARY INFORMATION: Notice is given concerning use of off-road vehicles on public lands in the Walker and Lahontan Resource Areas of the Carson City District, Nevada, in accordance with regulations contained in 43 CFR Part 8340 and 43 CFR 8365.2-4.

The 5,047,000 acre Carson City District affected by these designations consists of 2,237,000 acres of public land in the Walker Resource Area and 2,810,000 acres of public land in the Lahontan Resource Area. All acreage figures in this notice are approximate. Actual designations will be depicted on maps and/or the ground with signs and barriers. These designations are a summary of decisions made in the Lahontan Resource Management Plan, the Walker Resource Management Plan, and requirements of the Bureau's Interim Management Policy and Guidelines for Lands Under Wilderness Review (IMP).

I. Lahontan Resource Area

A. Open Designation

Areas which are designated open to off-road vehicle (ORV) use comprise 2,193,328 acres. The majority of open designations are in the remote part of the resource area east of Fallon, Nevada. Open designation was considered as appropriate because ORV use is infrequent and generally confined to existing roads and trails, and occasional cross country travel is essential for the conduct of authorized uses.

B. Interim Limited Designation-Lands Under Wilderness Review

Within a portion of the Lahontan Resource Area are approximately 474,206 acres currently under wilderness review. During the review period and until Congress makes a decision on wilderness suitability the following lands will be managed under requirements of the Bureau's Wilderness IMP.

WSA No.	WSA name	Acres
NV-030-102	Clan Alpine Mountains	196,128
NV-030-104	Stillwater Range	94,607
NV-030-108	Augusta Mountains	51,000
NV-030-110	Desotoya Mountains	42,262
NV-030-127	Job Peak	90,209

Use is limited to existing ways or approval through a BLM permit or plan of operations, where such use does not cause impacts inconsistent with the nonimpairment criteria contained in the IMP.

C. Closed Designations

Areas in the Lahontan Resource Area designated closed, comprise 5,570 acres.

1. Petersen Mountain—5,120 acres.
   Located 15 miles northwest of Reno, Nevada. Closed to motorized vehicles to protect critical wildlife habitat and enhance nonmotorized recreation opportunities.
2. Grimes Point Archaeological Area—400 acres.
   Located 10 miles east of Fallon, Nevada. Closed to protect nationally significant archaeological resources.
3. Sand Springs Desert Study Area—50 Acres.
   Located 25 miles east of Fallon, Nevada. Closed to protect nationally significant historic resources and a desert interpretive area.

D. Limited Designations

Areas in the Lahontan Resource Area designated limited comprise 136,896 acres.

1. Sand Hills—13,300 acres.
   Located 20 miles north of Reno, Nevada. This area will be closed from December 1 through April 30 to protect deer using critical winter range.
2. Bedell Flat—100 acres.
   Located 20 miles north of Reno, Nevada. This area will be closed from March 1 through May 1 to protect sage grouse during their strutting season.
3. Bailey-Jumbo Watershed—8,600 acres.
   Located 10 miles north of Carson City, Nevada.
   Peavine Watershed—4,560 acres.
   Located 10 miles northwest of Reno, Nevada.
   Use is limited to designated maintained roads in these two watershed areas to protect riparian habitat and reduce soil loss and associated flood sediment damage occurring in adjacent urban areas.
4. Steamboard ACEC—40 acres.
   Located 20 miles north of Carson City, Nevada. Use is limited to designated routes to protect geysers, hot springs, and endangered plants.
5. Red Rock Scenic Area—700 acres.
   Located 20 miles northwest of Reno, Nevada. Use is limited to designated routes to protect outstanding scenic features.
6. Virginia Mountains/Incandescent Rocks—67,500 acres.
   Located 25 miles north of Reno, Nevada. Use is limited to designated routes to protect scenic, wildlife, wild horse, watershed, and recreation values.
7. Sand Mountain Recreation Area—2,096 acres.
   Located 25 miles east of Fallon, Nevada. Use is limited in the vegetated areas to protect desert vegetation, animals, and scenic features.
8. Warm Springs—South Dogskin ORV Area.—40,000 Acres.
   Located 10 miles north of Reno, Nevada. This area is open to competitive events with restrictions on use to protect areas of high erosion potential.

II. Walker Reosurce Area

A. Open Designation

Areas which are designated open comprise 2,051,632 acres. The majority of open designations are in the remote part of the resource area south and east of Yerington, Nevada. Open designation was considered as appropriate because ORV use is infrequent and generally confined to existing roads and trails, and occasional cross country level is essential for the conduct of authorized uses.

B. Interim Limited Designation—Lands Under Wilderness Review

During the wilderness review period and until Congress makes a decision on Wilderness suitability the following lands will be managed under requirements of the Bureau's Wilderness IMP.

WSA No.	WSA name	Acres
NV-030-407	Gabbs Valley Range	79,600

Use is limited to existing ways or approval through a BLM permit or plan of operations, where such use does not cause impacts inconsistent with the nonimpairment criteria contained in the IMP.

C. Closed Designation

Areas in the Walker Resource Area designated closed comprised 14,875 acres.

1. Prison Hill—1,480 acres.
   Located in Carson City, Nevada. Closed to protect fragile soils, minimize conflicts with adjacent residential uses, and enhance other recreation opportunities.
2. Burbank Canyons Scenic Area—13,395 acres.
   Located 30 miles south of Carson City, Nevada, in the Pine Nut Mountains. This area is closed to protect riparian habitat, scenic quality and enhance non-motorized recreation opportunities.

D. Limited Designation

Areas which are designated limited comprise 90,893 acres.

1. Jacks Valley Wildlife Area—2,915 acres.
   Located five miles southeast of Caron City, Nevada. Area closed from December 1 thruogh April 30 to protect deer using critical winter range.
2. Bagley Valley—6,200 acres.
   Located 10 miles southeast of Markleesville, California. Use is limited to designated routes to reduce conflicts with wildlife, watershed, and scenic values and to minimize conflicts on lands that are adjacent to a Forest Service wilderness area.
3. Indian Creek Recreation Lands—6,065 acres.
   Located north and east of Markleeville, California. Use is limited to enhance the use of developed recreation facilities and non-vehicle recreation activities including hiking and whitewater boating.
4. Pine Nut Mountain Crest—45,000 acres.
   Located 15 miles southeast of Carson City, Nevada. Use is limited to designated routes and woodland product sale areas to protect wildlife, recreation, watershed, and scenic values.
5. Carson City Urban Lands—7,900 acres.
   Located in Carson City Nevada. Use is limited to protect scenic values and minimize conflicts with residential and Nevada State Park developments.
6. Stewart Valley Fossil Site—16,000 acres.
   Located 35 miles northeast of Hawthorne, Nevada. Use is limited to designated roads unless authorized under research permit to protect highly significant paleontological resources.
7. East Walker River Scenic Area—4,173 acres.
   Located 35 miles south of Yerington, Nevada. Use is limited to existing roads to protect scenic values and riparian-stream habitat.
8. Walker Lake Recreation Area—2,640 acres.
   In accordance with regulations contained in 43 CFR 8365.2-4, unless otherwise authorized no motor vehicle shall be driven in developed recreation areas except on roads or places provided for this purpose.

Date: September 2, 1988.

James W. Elliott,

District Manager.

[FR Doc. 88-21064 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-HC-M

[WY-920-08-4111-15; W-63609]

Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-63609 for lands in Niobrara County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-63609 effective July 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 88-20977 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-22-M

[CO-030-08-4410-10]

Gunnison Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare Resource Management Plan and Environmental Impact Statement and call for coal resource information; Gunnison Resource Area, Montrose District, Colorado.

SUMMARY: The Bureau of Land Management (BLM), Montrose District, Colorado, is initiating the preparation of a Resource Management Plan (RMP) which will include an Environmental Impact Statement (EIS). The plan will guide and control future management actions on approximately 605,600 acres of public land and mineral resources administered by the BLM in the Gunnison Resource Area. Pursuant to the Federal Land Policy and Management Act of 1976 and the Code of Federal Regulations (CFR), Title 43, § 1601.0-3, the Gunnison Resource Area hereby gives notice of its intent to start the effort. Pursuant to the Federal Coal Management Regulations (43 CFR Part 3400), a call for coal resource information is also being issued.

DATES: Informal, open house scoping meetings have been scheduled to enable the public, other Federal agencies, and local governments to discuss and clarify the issues listed below with BLM and identify any additional issues that need to be addressed in the RMP/EIS. The meetings are listed below.

Gunnison, Colorado: October 4, 1988, 2-4 p.m. and 7:30-9 p.m. in the Conference Room, Gunnison Resource Area Office, 216 North Colorado Street;

Lake City, Colorado: October 5, 1988, 2-4 p.m. and 7:30-9 p.m. at the Community Center Armory Building;

Montrose, Colorado: October 6, 1988, 2-4 p.m. and 7:30-9 p.m. in the Conference Room at the Montrose District Office, 2465 S. Townsend Avenue.

ADDRESSES: Written comments regarding issues to be addressed in the RMP/EIS will be accepted through October 19, 1988. Coal resource information will also be accepted through October 19, 1988. Comments regarding RMP issues should be addressed to Bill Bottomly, Bureau of Land Management, Gunnison RMP/EIS, 2505 South Townsend Avenue, Montrose, Colorado 81401, (303) 249-7791. Coal resource information including proprietary data should be sent to Charlie Beecham, Bureau of Land Management, Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado 81401.

FOR FURTHER INFORMATION CONTACT: Bill Bottomly, Bureau of Land Management, Gunnison RMP/EIS, 2505 South Townsend, Montrose, Colorado 81401, Telephone (303) 249-7791.

SUPPLEMENTARY INFORMATION: The RMP/EIS is scheduled to be completed in 1991. The planning area is within Hinsdale, Gunnison, Saguache, Montrose, and Ouray counties. The Gunnison and Uncompahgre National Forests, and the San Juan Resource Area surround the planning area, except along the west-central boundary which is defined by the Cimarron River and the Uncompahgre Basin Resource Area boundary.

The RMP/EIS is a comprehensive land use plan which allocates public lands to various uses under the multiple use concept. Goals for resource management will be identified, as will use levels and measures required to implement management decisions. The RMP/EIS may also outline needs for more specific management plans.

Preliminary issues to be addressed in the RMP/EIS include: (1) How should existing livestock and other uses be managed in riparian areas for protection and enhancement of riparian values? (2) what management practices and actions should occur to maintain or improve forage conditions in allotments not covered by current allotment management plans or outdated management plans? and (3) how and where should sagebrush community types be managed for wildlife and livestock? In addition to these specific issues, management guidelines will be developed for all the resources BLM manages.

An Interdisciplinary Team will analyze identified issues, formulate alternatives and assist in the preparation of the RMP/EIS. The following disciplines will be included on the Interdisciplinary Team: Geology, realty, recreation, soils, hydrology, wilderness, range, wildlife, forestry, archaeology, fire management, visual quality, socio-economics, and air quality.

Public involvement will be an essential component of the RMP process. Public information meetings will be called as needed and requested. Information will be published to inform the public of planning progress, dates, times, locations of meetings, and the availability of planning documents and related information.

Documents relevant to the planning process will be available at the Montrose BLM Office, 2505 South Townsend Avenue, Montrose, Colorado during normal business hours (Monday through Friday) from 7:45 a.m. to 4:30 p.m.

Call for Coal Resource Information: This call is to ensure that coal lands of interest to industry, state and local governments, and the general public are considered during the RMP process. The information provided in this call will be used to determine which lands will be considered for development during the RMP process.

Only lands determined to have coal development potential may be evaluated for coal development during land use planning. The coal resource information provided through this call should include the following information: (1) Location; (2) statements describing why the lands should be considered for coal development; (3) estimate for the amount of coal recoverable and data used to make this determination; and (4) recovery techniques.

Proprietary data marked as confidential may be submitted in response to this call. Data marked as confidential shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

Any individual, business entity, governmental entity, or public body may participate and submit coal resource information under this call. Coal resource information will be accepted until October 19, 1988.

Dated: September 6, 1988.

Alan L. Kesterke,

Montrose District Manager.

[FR Doc. 88-20976 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-JB-M

[MT-940-08-4520-11]

Land Resource Management; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plat of survey of the lands described below accepted August 31, 1988, were officially filed in the Montana State Office effective 10 a.m. on September 1, 1988.

Principal Meridian, Montana

T. 9 S., R. 26 E.

The supplemental plat of section 34, Township 9 South, Range 26 East, of the Principal Meridian, Montana, showing the subdivision of original lot 5, is based upon the township plat approved February 20, 1922. The area described is in Carbon County.

These surveys were executed at the request of the Chief, Division of Mineral Resources for the issuance of a mineral patent.

EFFECTIVE DATE: September 1, 1988.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

John A. Kwiatkowski,

Acting State Director.

Dated: September 6, 1988.

[FR Doc. 88-20978 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-DN-M

[NM-940-08-4520-12]

New Mexico, Filing of Plat of Survey

September 7, 1988.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on September 6, 1988.

A survey representing the dependent resurvey of a portion of the subdivisional lines, portions of the subdivision of sections 7, 19 and 20, certain small holding claim boundaries in sections 7, 17, 19, 20 and 29, a portion of tract 39, and the survey of division of accretion lines in section 17, a portion of the 1988 meanders of the right bank of the Rio Grande and certain lot boundaries in sections 7, 17, 19, 20 and 29, Township 4 South, Range 1 East, NMPM, New Mexico, Group 768 NM.

The survey was requested by the Area Manager, Socorro Resource Area, Socorro, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

John P. Bennett,

Chief, Branch of Cadastral Survey.

[FR Doc. 88-20974 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-FB-M

[AZ-921-08-4220-11, AR-032155, AR-032439 and A-5951]

Proposed Continuation of Withdrawals; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that the withdrawals for the Grasshopper Point Recreation Campground (formerly Oak Creek Canyon Recreation Area Campground), Clint's Well Campground and Pinegrove Campground, continue in their entirety for an additional 20 years. The lands have been and will remain closed to operation of the mining laws only.

DATE: Comments to this notice should be received on or before December 14, 1988.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563 Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: Marsha Luke, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 241-5534.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that the existing land withdrawals identified in this notice to be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy & Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are described as follows:

Coconino National Forest

Gila and Salt River Meridian Arizona

1. *Ar-032156 Public Land Order 3138 of July 30, 1963 Grasshopper Point Recreation Area Campground (formerly Oak Creek Canyon Recreation Area Campground)*

T. 17 N., R. 6 E.,
Sec. 4, lots 2 and 3.

2. *Ar-032439 Public Land Order 3264 of October 29, 1963 Clint's Well Campground*

T. 19 N., R. 10 E.,
Sec. 32, NE¼SW¼

3. *A-595 Public Land Order 5209 or April 20, 1972 Pinegrove Campground.*

T. 19, N., R. 9 E.,
Sec. 17, S½NE¼, SE¼NW¼NE¼SW¼, N½S½SE¼;
Sec. 16, Those parts of the SW¼NW¼, NW¼SW¼, and N½SW¼SW¼ and not included in the area withdrawn by PLO 3152 for Forest Highway No 3 roadside.

The areas described aggregate 475.98 acres in Coconino County.

The withdrawals are essential for the protection of substantial capital improvements located on these sites. The withdrawals currently segregrate the lands from operation of the mining laws, but not the mineral leasing laws. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to the Arizona State Director at the address indicated 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 be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

John T. Mezes,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88-20979 Filed 9-14-88; 8:45 am]
BILLING CODE 4310-32-M

[AZ (921-08-4220-11 A-1908, A-6883)]

Proposed Continuation of Withdrawals; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, propose that two separate orders which withdrew land within the Kaibab National Forest for an indefinite period of time for an administration site and campground areas, continue for an additional 20 years. The land will remain closed to mining but has been and will remain open to mineral leasing.

DATE: Comments to this notice should be received on or before December 14, 1988.

ADDRESS: Comments should be sent to Arizona State Director, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: Marsha Luke, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 241-5534.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that the following idenified withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described land and projects are involved:

Kaibab National Forest

Gila and Salt River Meridian, Arizona

1. *AZ-1908, Public Land Order 4715 dated October 9, 1969 Tusayan Administrative Site, 107.17 acres Coconino County*

T. 30 N., R. 3 E.,
Sec. 18, W½ of lots 1 and 2.
T. 30 N., R. 2 E.,
Sec. 13., N½NE¼NE¼, N½S½NE¼NE¼, SW¼SW¼NE¼NE¼, SE¼SE¼NE¼NE¼, NW¼NW¼SE¼NE¼, NE¼NE¼SE¼NE¼, S½N½SE¼NE¼, S½SE½NE¼.

2. *AZ-6883, Public Land Order 5367 dated July 25, 1973 Cataract Lake Campground, 190.75 acres Coconino County*

T. 22 N., R 2. E.,
Sec. 30, SW¼SE¼NE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, SE¼SE¼.
Sec. 31, NW¼NE¼NE¼, NE¼NW¼NE¼, S½SE¼NW¼NW¼NE¼, S½NW¼NE¼, E½SE¼NW¼, N½NE¼NE¼SW¼, SE¼NE¼NE¼SW¼, and those parts of the following parcels west of the Atchison, Topeka, and Sante Fe Railroad right of way, NE¼NE¼NE¼, SW¼NE¼NE¼, SW¼NE¼, W½NW¼SE¼.

J.D. Dam Campground, 480 acres Coconino County

T. 20 N., R. 3 E.,
Sec. 36, S½, S½N½.

The lands described above aggregate 777.92 acres in 3 parcels located in Coconino County.

The withdrawals are essential for protection of substantial capital improvements. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this Notice, persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Arizona State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as 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 as requested. The final determination of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

John T. Mezes,
Chief, Branch of Lands and Mineral Operations.

[FR Doc. 88-20980 Filed 9-14-88; 8:45 am]
BILLING CODE 4310-32-M

Minerals Management Service

Development Operations Coordination Document; Century Offshore Management Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Century Offshore Management Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OSC-G 5313, Block 364, West Cameron 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 existing onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on September 7, 1988. Comments must be received on or before September 30, 1988 or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. M.J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

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 May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: September 9, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-20981 Filed 9-14-88; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-259]

Report on the Pros and Cons of Entering Into Negotiations on Free Trade Area Agreements With Taiwan, The Republic of Korea, and ASEAN, or the Pacific Rim Region in General

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation, scheduling of hearing, and request for comments.

EFFECTIVE DATE: September 9, 1988.

FOR FURTHER INFORMATION CONTACT: Constance A. Hamilton (202-252-1263), Trade Reports Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

Background

The Commission instituted investigation No. 332-259 following receipt of a letter dated August 4, 1988 from the Senate Committee on Finance requesting the Commission to conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide a summary of the views of recognized authorities on U.S.-Pacific Rim trade relations on the pros and cons of entering into negotiations for a U.S.-Taiwan Free Trade Agreement, a U.S.-Korean Free Trade Agreement, a U.S.-ASEAN Free Trade Agreement, or a broader free trade arrangement for the Pacific countries in general, which interested market economy members could join. The Committee requested that the report be submitted no later than six months after initiation of the investigation.

The Committee letter stated that such agreements could include, in addition to the eventual complete elimination of all tariffs and other restrictive regulations of commerce on substantially all trade between the United States and these countries, the removal of barriers to investment and trade in services and the guarantee of adequate protection of intellectual property rights.

The Committee also requested that if the experts believe there are specific characteristics of the trade relationship between the United States and the subject countries which would make a free trade relationship more attractive or feasible between one or more of these countries than others or that would make a broader arrangement with Pacific Rim countries more appropriate, the report should include this information. The Committee also requested that, where the experts identify problem areas that would render the completion of free trade agreements less than ideally effective, the report should clearly identify those problem areas and present the experts' suggestions for alternative policy approaches for the United States.

Public Hearing

A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street SW., Washington, DC 20436, beginning at 9:30 a.m. on November 29, 1988. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, no later than noon, November 21, 1988. The deadline for filing prehearing briefs (original and 14 copies) is November 21, 1988.

Written Submissions

Interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than January 9, 1989. All submissions should be addressed to the Secretary to the Commission at the Commission's office in Washington, DC.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: September 9, 1988.

[FR Doc. 88-20966 Filed 9-14-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-279]

Certain Plastic Light Screw Anchors; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: HWally Products Corp. Ltd. and Linkwell Industry Co., Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission, thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 7, 1988.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, on or before September 26, 1988, any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: September 7, 1988.

[FR Doc. 88-20976 Filed 9-14-88; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 298)]

Burlington Northern Railroad Co.—Abandonment and Discontinuance—In Jackson and Cass Counties, MO; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to: (1) Discontinue trackage rights operations over a 5.36-mile segment of Missouri Pacific Railroad Company line extending between milepost MP 284.63/BN 11.23 near BV Jct. and milepost 289.99 near Dodson; and (2) abandon its 35.96-mile line of railroad extending between milepost BN 16.04 near Dodson and milepost BN 53.00 near East Lynne, all in Jackson and Cass Counties, MO.

The abandonment and discontinuance of service certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer. "Rail Section AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Decided: September 8, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips. Commissioner Lamboley concurred in the result.

Noreta R. McGee,

Secretary.

[FR Doc. 88-21033 Filed 9-14-88; 8:45 am]

BILLING CODE 7035-01-M

Docket No. AB-290 (Sub-No. 34)

Wabash Railroad Company and Norfolk and Western Railway Company Abandonment and Discontinuance of Service—Between Pine and Wakarusa in St. Joseph and Elkhart Counties, Indiana; Decision and Certificate of Interim Trail Use or Abandonment

Decided: September 12, 1988.

By application filed August 1, 1988, Wabash Railroad Co. (Wabash) seeks to abandon, and Norfolk and Western Railway Co. (NW) (referred to collectively as applicants) seeks to discontinue service, over a 16.4-mile line of railroad between Pine, Indiana (milepost 186.64) and Wakarusa, Indiana (milepost 170.24). Wabash and N&W are subsidiaries of Norfolk Southern Corporation (NS). No protests were filed. The Indiana Snowmobile Association (ISA) has filed a request seeking a certificate of interim trail use (CITU) under 16 U.S.C. 1247(d) and 49 CFR 1152.29 (Trails Act). This request is supported by the Indiana Department of Natural Resources (IDNA), the South Bend Snowmobilers Club, the Winter Wan-Derers Snowmobile Club, and the Northern Indiana Trails Alliance. The Railway Labor Executives' Association and the United Transportation Union filed comments seeking imposition of labor protective conditions.

Under 49 U.S.C. 10904(b) the Commission must grant an application for abandonment unless a protest is received within 30 days after the application was filed. Since the time for filing protests has expired and no protests were filed, an appropriate certificate and decision must be entered. As required by 49 U.S.C. 10903(b)(2), appropriate employee labor conditions will be imposed.

In a decision decided September 12, 1988, I concluded that ISA's request for a CITU complied with the Commission's regulations at 49 CFR 1152.29 and found that the Trails Act is applicable. Wabash was directed to respond to ISA's request. Because of time constraints, we had previously inquired by telephone whether Wabash would negotiate a trails use agreement. Wabash replied by telephone that it was willing to negotiate a trails use

agreement. Consequently, the decision issued pursuant to 49 CFR 1152.29(b)(1)(i) requested Wabash to confirm the telephonic communication of its willingness to enter into the trail use agreement.

Accordingly, I will issue this CITU under 49 CFR 1152.29(d). Wabash is free to negotiate an agreement with ISA during the 180-day period prescribed below. I note, however, that an offer of financial assistance takes priority over interim trails use and public use conditions. *See Rail Abandonments—Use of Rights-of-Way as Trails,* 2 I.C.C.2d 591, 608, (1986).

As long as the final agreement is mutually acceptable to the parties, further Commission approval is not necessary. If no agreement is reached within 180 days from the service date of this decision and certificate, NS, contingent on the other conditions listed in this decision, may then fully abandon the line. *See* 49 CFR 1152.29(d)(1).

The environmental and energy impacts of this action have been examined and found not to be significant. Areas of consideration included, but were not limited to, energy consumption, water quality, noise levels, and public safety.

The U.S. Corps of Engineers (Corps) has stated that it is concerned about the method and location of the salvage operations. The rail line crosses several water courses and through flood plains and wetlands associated with these water courses. The Corps is investigating the matter and feels that the railroad may be required to obtain permits if fills that affect the area's wetlands or waterways are required. Accordingly, a condition will be imposed requiring Wabash to consult with the Corps before conducting salvage activities which would affect any creeks, waterways, flood plains or wetlands through which the line passes.

The right-of-way may be suitable for alternative public use. No party has requested a public use condition, however, and I will not impose one here. I will provide a 10-day period after the date of Federal Register publication for interested persons to request a public use condition.

I find:

1. Discontinuance of service and abandonment of the line will not result in a serious adverse impact on rural and community development.

2. The property is suitable for other public purposes.

3. This action will not significantly affect either the quality of the human environment or energy conservation.

It is certified: The present and future public convenience and necessity permit abandonment and discontinuance of service by applicants of the described railroad line, subject to (1) the employee protective conditions in *Orgeon Short L. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979), (2) consulting with the U.S. Corps of Engineers before beginning salvage operations that affect any creeks, waterways, flood plains or wetlands, and (3) the terms and conditions for implementing trail use/rail banking set out in the orders below.

It is ordered:

1. These findings will be published in the *Federal Register* on the date this decision is served. An offer of financial assistance to allow rail service to continue must be received by the railroad and the Commission within 10 days after publication. The offeror must comply with 49 U.S.C. 10905 and 49 CFR 1152.27(b).

2. Requests for a public use condition must be filed within 10 days after publication.

3. Offers and related correspondence to the Commission must refer to this proceeding. The following notation must be typed in bold face on the lower left hand corner of the envelope: Rail Section, AB–OFA.

4. Subject to the conditions set forth above and provided no offer for continued rail operations is received, the railroad may discontinue service, cancel tariffs for this line on not less than 10 days' notice to the Commission, and salvage track and material consistent with interim trail use/land banking after the effective date of this certificate. Tariff cancellations must refer to this decision and certificate by date and docket number.

5. If an interim trail use/rail banking agreement is reached, it must require ISA to assume, for the term of the agreement, fully responsibility for management of, for any legal liability arising out of the transfer or use of the right-of-way (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way.

6. Interim trail use/land banking is subject to the future restoration of rail service.

7. If the user intends to terminate trail use, it must send the Commission a copy of this certificate and request that it be vacated on a specific date.

8. If an agreement for interim trail use/land banking is reached by the 180th day after service of this certificate, interim trail use may be implemented. If no agreement is reached by the 180th day, applicant may fully abandon the line.

9. This certificate and decision shall be effective 30 days from the date of service unless otherwise ordered by the Commission.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–21230 Filed 9–14–88; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

September 12, 1988.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of estimated time it takes each respondent to respond; (6) an estimate of the total public burden hours associated with the collection; and (7) an indication as to whether section 3504(h) of Pub. L. 96–511 applies. Comments and/or questions regarding the item(s) contained in this notice, especially regarding the estimated response time, should be directed to the OMB reviewer, Mr. Sam Fairchild, on (202) 395–7340 AND to the Department of Justice's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer AND the Department of Justice's Clearance Officer of your intent as soon as possible. The Department of Justice's Clearance Officer is Larry E. Miesse who can be reached on (202) 633–4312.

New Collection

(1) Survey of Residential Community Corrections Programs.

(2) No form number, National Institute of Corrections.

(3) One time.

(4) State and local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations. The National Institute of Corrections, in supporting residential community corrections programs, needs documentation and descriptive information of available resources to help officials and administrators coordinate resources and assist the NIC in making informed program decisions.

(5) 4,100 respondents at .318 hours each.

(6) 1,300 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) Petition to Employ Intracompany Transferee.

(2) I-129L, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households, businesses or other for-profit. Used by an employer to apply for an L-1 visa (labor) nonimmigrant classification for a foreign employee to temporarily come to the United States as an intracompany transferee to continue employment with the same employer, or with a parent, branch, subsidiary or affiliate of that organization.

(5) 15,000 annual respondents at one hour each.

(6) 15,000 estimated annual burden hours.

(7) Not applicable under 3504(h).

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Notice to Student or Exchange Visitor.

(2) I-515, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Used to notify students or exchange aliens admitted to the United States as nonimmigrants that they are admitted without required forms and that they are required to, within 30 days, obtain and present the required forms to the appropriate INS office.

(5) 5,000 respondents at .083 hours each.

(6) 415 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Affidavit of Witness.

(2) I-488, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Used in various INS proceedings such as suspension of deportation and voluntary departure; also used in connection with application for creation of record of lawful admission, and is needed for adjudicating petitions and applications.

(5) 2,500 respondents at .166 hours each.

(6) 415 estimated annual burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer.

[FR Doc. 88-21017 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-10-M

Notice of Lodging of Consent Decree; Aerojet-General Corp. et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on September 8, 1988 a proposed partial consent decree in *United States et al., v. Aerojet-General Corp., et al.*, Nos. CIVS-86-0063 and CIVS-86-0064 (consolidated), was lodged with the United States District Court for the Eastern District of California. The actions were brought pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and other federal statutes for cleanup of the Aerojet Superfund located in Rancho Cordova, California, and for the recovery of costs expended by the United States and the State in connection with the Aerojet General Site.

The partial consent decree is entered into between the United States and the State of California and Aerojet-General Corp. and Cordova Chemical Company (collectively "Aerojet"), the two parties potentially responsible for the contamination at the Aerojet Site. The Decree requires Aerojet to conduct a remedial investigation/feasibility study ("RI/FS") of the Aerojet Site. Aerojet is also obligated to pay the Hazardous Substances Superfund a total of $1,000,000 in settlement of its liability for past costs incurred by EPA at the Site. Aerojet must also pay the State of California $2.4 million as reimbursement of past costs and $2.0 million for civil monetary penalties. Finally, Aerojet will pay certain oversight costs incurred by EPA and the State in the future.

The Decree also obligates Aerojet to continue designing and implementing interim remedial actions at the site and to monitor certain water supplies located around the site and downstream of the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 60 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States v. Aerojet-General Corp., et al.*, D.O.J. Ref. 90-7-1-74.

The proposed partial consent decree may be examined at the office of the United States Attorney, 3305 Federal Building, 650 Capitol Mall, Sacramento, California 95814 and at the Region IX Office of the Environmental Protection Agency, 215 Fremont St., San Francisco, California 94105. Copies of the proposed partial consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Any request for a copy of the decree should be accompanied by a check in the amount of $1.50 for copying costs payable to the "United States Treasurer."

Richard J. Leon,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-21036 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), and Section 7003(d) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973(d), notice is hereby given that on August 31, 1988, a proposed consent decree in *United States v. Hydron Laboratories, Inc.*, Civil Action No. 88-0517, was lodged with the United States District Court for the District of Rhode Island. The proposed consent decree involves claims by the United States for recovery of clean-up costs incurred and to be incurred at the Picillo Farm Superfund Site in Coventry, Rhode Island as well as claims for injunctive relief. These claims were brought against defendant Hydron Laboratories, Inc. pursuant to RCRA and CERCLA.

The proposed consent decree requires the defendants to pay $92,400 to the State of Rhode Island and the United States Environmental Protection Agency ("EPA") for past costs expended at the Site. In return, the defendant is given a release from claims for past costs at the Site and for claims related to the remedial action. The defendant is also given a release for certain natural resource damage claims. Defendant is not released for claims relating to groundwater protection or remediation arising out of conditions at the Site, including the costs of an on-going groundwater Remedial Investigation/Feasibility Study now being conducted by EPA.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Hydro Laboratories, Inc.*, D.J. Ref. No. 90-11-2-131.

The proposed consent decree may be examined at the Office of the United States' Attorney for the District of Rhode Island, 223 Federal Building and Courthouse, Kennedy Plaza, Providence, Rhode Island 02903 and at the Region I Office of the United States Environmental Protection Agency, John F. Kennedy Federal Bulding, Room 2203, Boston, Massachusetts 02203. Copies may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 88-21070 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 21-88]

Privacy Act of 1974; Notice of New System

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice, Special Counsel for Immigration Related Unfair Employment Practices (OSC), proposes to establish a new system of records entitled, "Special Counsel for Immigration Related Unfair Employment Practices Travel Reports, JUSTICE/OSC-003." This system is established to enable OSC to manage its official travel and travel expenditures.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment on the routine uses of a new system; the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires that it be given a 60-day period in which to review the system.

Therefore, please submit comments by October 17, 1988. The public, OMB and Congress are invited to send written comments to J. Michael Clark, Assistant Director, Facilities and Administrative Services Staff, Justice Management Division, Department of Justice, Room 6402, 601 D Street, NW., Washington, DC 20530.

In accordance with Privacy Act requirements, the Department of Justice has provided a report on the proposed system to OMB and the Congress.

Date: August 23, 1988.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/OSC-003

SYSTEM NAME:

Special Counsel for Immigration Related Unfair Employment Practices Travel Reports, JUSTICE/OSC-003.

SYSTEM LOCATION:

U.S. Department of Justice, Special Counsel for Immigration Related Unfair Employment Practices (OSC), 1100 Connecticut Avenue, NW., Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have filed travel authorization forms or travel voucher forms for official travel on behalf of OSC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information concerning travel expenditures recorded on travel authorization forms (DOJ-501) and travel voucher forms (SF-1012) by OSC employees or other persons authorized to travel for OSC and submitted to the Executive Office of OSC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 8 U.S.C. 1324b; and 28 CFR Part 44.

PURPOSE OF THE SYSTEM:

This system enables OSC to ensure authorized travel, account for its travel expenditures, and manage the appropriated funds therefor. It also permits OSC to maintain account balances and properly reimburse those who travel on behalf of OSC.

Department employees may access the system to make reports to the Executive Office, OSC, for its use in reviewing and controlling OSC expenditures. Employees may also access the system to process travel authorizations and reimbursements for travel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) A record relating to a case or matter, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which OSC is authorized to appear, when the United States, or any agency or subdivision thereof, is a party to litigation or has an interest in litigation and such records are determined by OSC to be arguably relevant to the litigation; (2) a record relating to a case or matter may be disseminated to an actual or potential party to litigation or the party's attorney (a) to negotiate or discuss such matters as settlement of the case or matter or (b) to conduct a formal or informal discovery proceeding; (3) information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (4) information may be disclosed as is necessary to respond to inquiries by Members of Congress on behalf of individual constituents that are subjects of OSC records; and (5) records may be disclosed to the National Archives and Records Administration and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Travel data are stored on computer disks. Individual vouchers and travel authorization forms are stored in file jackets.

RETRIEVABILITY:

Records are retrieved by the names of those individuals covered by this system of records.

SAFEGUARDS:

Information in manual and computer form is safeguarded and protected in accordance with applicable Department security regulations for systems of records. Only those employees with the need-to-know in order to perform their official duties will be able to access the stored information. Access to the records in the computer system is restricted by the locks on storage facilities.

RETENTION AND DISPOSAL:

Records are maintained in the system while current and required for official Government use. When no longer needed on an active basis, the records are transferred to computer tape and stored in accordance with Departmental security regulations for systems of records. Final disposition is in accordance with General Records Schedule 9, items 3, 4 and 5.

SYSTEM MANAGER AND ADDRESS:

Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, Post Office Box 65490 NW, Washington, DC 20035.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Requests for access to records should be directed to the System Manager listed above. Clearly mark the envelope and letter "Privacy Access Request;" provide the full name and notarized signature of the individual who is the subject of the record, his/her date and place of birth, and any other identifying number or information which may assist in locating the record; and furnish a return address.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are OSC employees and other persons authorized to travel on behalf of OSC and who file travel authorization and travel voucher forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 88-21066 Filed 9-14-88; 8:45 am]
BILLING CODE 4410-01-M

[AAG/A Order No. 22-88]

Privacy Act of 1974; New System

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice, Special Counsel for Immigration Related Unfair Employment Practices (OSC), proposes to establish a new system of records entitled, "Freedom of Information/Privacy Acts Records, JUSTICE/OSC-004." This system will enable OSC to process requests for access to its records under the Freedom of Information and Privacy Acts.

In the Proposed Rules Section of today's **Federal Register**, OSC also proposes to exempt portions of the system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). The exemptions are needed to protect ongoing investigations, as well as the privacy of third parties and the identities of confidential sources involved in such investigations.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment on the routine uses of a new system; the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires that it be given a 60-day period in which to review the system.

Therefore, please submit any comments by October 17, 1988. The public, OMB and Congress are invited to send written comments to J. Michael Clark, Assistant Director, Facilities and Administrative Services Staff, Justice Management Division, Department of Justice, Room 6402, 601 D Street NW., Washington, DC 20530.

In accordance with Privacy Act requirements, the Department of Justice has provided a report on the proposed system to OMB and the Congress.

Date: August 23, 1988.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/OSC-004

SYSTEM NAME:

Freedom of Information; Privacy Acts Records, JUSTICE/OSC-004.

SYSTEM LOCATION:

U.S. Department of Justice, Special Counsel for Immigration Related Unfair Employment Practices (OSC), 1100 Connecticut Avenue NW., Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act; persons who request access to or correction of records pertaining to themselves contained in OSC systems of records pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested and about whom information is contained in requested records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains copies of (1) Freedom of Information/Privacy Acts (FOI/PA) requests received by OSC; (2) copies of OSC responses to requesters; (3) internal memoranda and correspondence related to the requests; (4) copies of the documents responsive to the requests; (5) records of appeals or litigation and (6) disclosure accounting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 8 U.S.C. 1324b; and 28 CFR Part 44.

PURPOSE OF THE SYSTEM:

This system has been established to enable OSC to receive, process and respond to FOI/PA requests for its records.

Employees of OSC may access the system to perform its various receipt and response functions in regard to an individual's request; to determine the status and content of responses to correspondence; to respond to inquiries from OSC personnel, Office of Legislative Affairs, and from Congressional offices regarding the status of correspondence; to prepare budget requests; and to carry out any other authorized internal duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) A record may be disseminated to a Federal agency, which has furnished that record to the Department, to permit that agency to make a decision as to access or correction or to consult with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency to verify the accuracy of informaiton submitted by an individual who has requested amendment or correction of records; (3) a record relating to a case or matter, or any facts derived therefrom,

may be disseminated in a proceeding before a court or adjudicative body before which OSC is authorized to appear, when the United States, or any agency or subdividion thereof, is a party to litigation or has an interest in litigation and such records are determined by OSC to be arguably relevant to the litigation; (4) a record relating to a case or matter may be disseminated to an actual or potential party to litigation or the party's attorney (a) to negotiate or discuss such matters as settlement of the case or matter of (b) to conduct a formal or informal discovery proceeding; (5) information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (6) information in the system may be disclosed as is necessary to respond to inquiries by Members of Congress on behalf of individual constituents that are subjects of OSC records; and (7) records may be disclosed to the National Archives and Records Administration and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in file jackets, and on computer disks or tapes.

RETRIEVABILITY:

Entries ar arranged alphabetically and are retrieved from the computer by names of the individuals covered by this system of records. Information may also be retrieved from file jackets by an assigned number.

SAFEGUARDS:

Information in manual and computer form is safeguarded and protected in accordance with applicable Department security regulations for systems of records. Only those employees with the need-to-know in order to perform their duties will be able to use the computer to access the stored information. Access to records is restricted by locks on storage facilities and by use of password encryption.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with General Records Schedule 14, items 16, 17, 18 and items 25, 26, 27 and 28.

SYSTEM MANAGER AND ADDRESS:

Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, Post Office Box 65490 NW, Washington, DC 20035.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above.

RECORDS ACCESS PROCEDURES:

Part of this system is exempted from this requirement under 5 U.S.C. 552a(k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access shall be made in writing, with the envelope and letter clearly marked "Privacy Access Request." Include in the request the full name of the individual, his or her current address, date and place of birth, notarized signature (28 CFR 16.41(b)), the subject of the case or matter as described under "Categories of Records in the System," and any other information which is known and may be of assistance in locating the records, such as the name of the immigration-related employment discrimination case or matter involved, where and when the discrimination occurred, and the name of the judicial district involved. The requester will also provide a return address for transmitting the information. Access requests should be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include the individual covered by the system and may include any agency or person who has provided information related to the law enforcement responsibilities of OSC.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted parts of this system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 88-21067 Filed 9-14-88; 8:45 am]
BILLING CODE 4410-01-M

Antitrust Division

United States v. Waste Management, Inc. and Industrial Disposal Service Co., Inc. Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)-(h), that a proposed Final Judgment and Competitive Impact Statement have been filed with the United States District Court for the Western District of Texas in *United States of America v. Waste Management, Inc. and Industrial Disposal Service Company, Inc.*, Civil Action No. *SA88CA0911.*

The Complaint in this case alleges that the proposed acquisition by Waste Management, Inc. ("WMI") of Industrial Disposal Service Company, Inc. ("IDS") is a violation of section 7 of the Clayton Act, 15 U.S.C. Section 18. The Complaint alleges that the effect of the merger may be substantially to lessen competition in the market for commercial containerized solid waste hauling service in Bexar County, Texas.

The proposed Final Judgment requires WMI to divest by March 1, 1989, WMI's solid waste hauling business in San Antonio, Texas—Waste Management of San Antonio ("WMSA")—and all WMI's interest in the proposed Buffalo Valley landfill site. If the defendants cannot accomplish the divestiture during this time, then a trustee will be appointed to do so. The proposed Final Judgment also requires WMI to provide a guaranteed disposal rate to WMSA for 3½ years from the date of divestiture.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Mark C. Schechter, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, U.S. Department of Justice, Room 9104, 555 Fourth Street NW., Washington, DC 20001. (telephone: 202/724-6349).

Joseph H. Widmar,
Director of Operations Antitrust Division.

[Civil Action No. SA88CA0911; Filed; 9-1-88]

Stipulation

In the United States District Court for the Western District of Texas, San Antonio Division. In the matter of United States of America, Plaintiff, v. Waste Management, Inc., Industrial Disposal Service Company,

Inc., Richard R. Clark and Andrew A. Clark, Defendants.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of theAntitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. The parties shall abide by and comply with the provisions of the Final Judgment pending entry of the Final Judgment, and shall, from the date of the filing of this Stipulation, comply with all the terms and provisions thereof as though the same were in full force and effect as an order of the Court.

3. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

Michael Boudin,
Acting Assistant Attorney General.

John W. Clark

Constance K. Robinson

Attorneys
U.S. Department of Justice
Antitrust Division
Respectfully submitted,

Roger W. Fones

Nancy H. McMillen

Attorneys, U.S. Department of Justice,
Antitrust Div.
Judiciary Ctr. Bldg., Rm. 9804
555 Fourth Street NW.
Washington, DC 20001
202/724-6386

For Defendant Waste Management, Inc.:
Bell, Boyd & Lloyd
By:
Michael Sennett
Bell, Boyd & Lloyd
Three First National Plaza
Chicago, Illinois 60602
312/372-1121

For Defendants Industrial Disposal Service Company, Inc., Richard R. Clark and Andrew A. Clark:
Cox & Smith, Incorporated
By:
A. Michael Ferrill
Cox & Smith, Incorporated
600 NBC Building
San Antonio, Texas 78205
512/226-7000

Richard R. Clark

Andrew A. Clark

So ordered.

United States District Judge

Final Judgment

Whereas, plaintiff, United States of America, having filed its Complaint herein on September 1, 1988, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, prompt and certain divestiture is the essence of this agreement and defendants have represented to plaintiff that the divestiture required below can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged, and decreed as follows:

I

Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendants under section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

Definitions

As used in this Final Judgment:

A. "Solid waste hauling" means the collection and transportation to a disposal site of trash and garbage from residential, commercial and industrial customers. Solid waste hauling includes hand pick-up, containerized pick-up and roll-off service; it does not include service at government installations pursuant to contracts awarded under small business set aside programs.

B. "Solid waste disposal" means the disposal of trash and garbage in a landfill.

C. "WMI" means defendant Waste Management, Inc., a Delaware Corporation with its headquarters in Oak Brook, Illinois.

D. "IDS" means defendant Industrial Disposal Service Company, Inc., a Texas corporation with its headquarters in San Antonio, Texas.

E. "The Clarks" means defendants Richard R. and Andrew A. Clark, the onwers of IDS prior to the acquisition of IDS by WMI.

F. "WMSA" means Waste Management of San Antonio, a division of an indirectly wholly-owned subsidiary of WMI that provides solid waste hauling services in the San Antonio, Texas area. WMSA includes all customer lists, contracts and accounts, all contracts for disposal of solid waste at landfills, all trucks, containers, equipment, materials, supplies, computer software, and all other tangible and intangible assets, rights and other benefits presently owned, licensed, possessed or used by WMSA.

G. "Buffalo Valley Assets" means any and all interest that defendants have or shall acquire in the proposed Buffalo Valley Type 1 sanitary landfill on the approximately 197-acre site located on Shaffer Road in Bexar and Guadalupe Counties, which must include reasonable access to the site, all landfill permits and pending landfill permit applications for the site, particularly Permit Application Number 1880 before the Texas Department of Health in the name of Suntech Investment and Development, Inc., and all interests therein held by defendants.

III

Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. WMI and IDS shall require, as a condition of the sale or other disposition of all or substantially all of WMSA or of

the Buffalo Valley Assets, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

C. Nothing contained in this Final Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

IV

Divestiture of Assets

A. WMI and IDS are hereby ordered and directed to divest WMSA to an eligible purchaser or purchasers.

B. WMI and IDS are hereby ordered and directed to divest the Buffalo Valley Assets to an eligible purchaser or purchasers.

C. WMI and IDS shall assure that, for three and one-half years following the date of divestiture of WMSA, WMSA has the right to dispose of unlimited vlumes of solid waste in a landfill located in Bexar County at a disposal rate not to exceed $2.00 per cubic yard. The rate may be based upon a requirement that WMSA dispose of at least 500 cubic yards per day in such landfill. The foregoing disposal rate of $2.00 per cubic yard shall be increased on January 1, 1990 and on each January 1 thereafter by the greater of (i) the simple average of the amounts of any percentage changes in the Consumer Price Indexes for Houston and Dallas, Texas, occurring during the preceding calendar year, or (ii) the amount necessary to create a disposal rate equal to the lower of (a) 20 percent less than the lowest rate for the disposal of compacted solid waste available to the public in any privately owned landfill located in Bexar County (generally referred to in the industry as the "gate rate"), or (b) 33 percent less than the gate rate for the disposal of compacted solid waste available to the public at the landfill owned and operated in Bexar County by the City of San Antonio. WMI and IDS shall reimburse to WMSA within 30 days the difference between $2.00 per cubic yard (or the rate as adjusted pursuant to the procedure described above) and the lowest disposal rate available to WMSA in Bexar County. For purposes of this paragraph, one ton is equal to three cubic yards. This Section IV.C shall terminate in the event WMSA (or any person directly or indirectly controlling, controlled by or under direct or indirect common control with WMSA) acquires, develops or otherwise obtains ownership or operating control of an operating landfill located in Bexar or Guadalupe Counties.

D. Unless plantiff otherwise consents, divestiture under Sections IV.A and IV.B, or by the trustee appointed pursuant to Section V, shall be accomplished in such a way as to satisfy plaintiff, in its sole determination, that WMSA can and will be operated by the purchaser or purchasers as a viable, ongoing business engaged in solid waste hauling in the San Antonio, Texas area, and that the Buffalo Valley Assets similarly will be pursued by the purchaser or purchasers to achieve a viable, ongoing business engaged in solid waste disposal in the San Antonio, Texas area. Divestiture under Sections IV.A and IV.B, or by the trustee, shall be made to a purchaser or purchasers for whom it is demonstrated to plaintiff's satisfaction that (1) the purchase or purchases is or are for the purpose of competing effectively in solid waste hauling and disposal and (2) the purchaser or purchasers has or have the managerial, operational, and financial capability to compete effectively in solid waste hauling and disposal. Plaintiff considers the ongoing viability of the solid waste hauling business to be enhanced if the same purchaser buys both WMSA and the Buffalo Valley Assets. The purchaser of WMSA shall have a right of first refusal on the divestiture of the Buffalo Valley Assets.

E. Without the prior consent of plaintiff, WMI and IDS shall not sell WMSA or the Buffalo Valley Assets to Browning-Ferris Industries and shall not sell a landfill or a pending application for a landfill permit to any entity that at the time of the divestiture owns or operates a landfill in Bexar County.

F. Defendants shall take no action to protest, lobby against or otherwise impede, directly or indirectly, any application(s) for a landfill permit(s), or any other permits, divested pursuant to this Final Judgment, nor shall defendants provide financing or other assistance to any person who does so. The purchaser or purchasers of the Buffalo Valley Assets shall take no action to protest, lobby against or otherwise impede, directly or indirectly, any currently pending application for a landfill permit in Bexar or Guadalupe Counties in which WMI has any interest, nor shall that purchaser or purchasers provide financing or other assistance to any person who does so.

G. WMI and IDS shall not require of the purchaser or purchasers, as a condition of sale, that any current employee of WMSA be offered or guaranteed continued employment after the divestiture.

H. WMI and IDS shall take all reasonable steps to accomplish quickly the divestiture contemplated by this Final Judgment.

V

Appointment of Trustee

A. In the event that WMI and IDS have not divested all of their interest required by Sections IV.A and IV.B by March 1, 1989, the Court shall, on application of the plaintiff, appoint a trustee to effect the remainder of the divestiture required by Sections IV.A and IV.B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the assets required to be divested pursuant to Sections IV.A and IV.B. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Section VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance, or on the grounds that the sale is contrary to the express terms of this Final Judgment. Any such objections by defendants must be conveyed in writing to plaintiff and the trustee within fifteen (15) days after the trustee has provided the notice required under Section VI.

B. If WMI and IDS have not divested all of their interest required by Section IV.A and IV.B by February 1, 1989, plaintiff and WMI shall immediately notify each other and the Clarks in writing of the names and qualifications of not more than two (2) nominees for the position of the trustee who shall effect the required divestiture. The parties shall attempt to agree upon one of the nominees to serve as the trustee. If the parties are able to agree on a trustee within thirty (30) days of the exchange of names, plaintiff shall notify the Court of the person upon whom the parties agree, and the Court shall appoint such person as the trustee. If the parties are unable to agree within that time period, plaintiff shall furnish the Court the names of each party's nominees. The Court may hear the parties as to the qualifications of the nominees and shall appoint one of the nominees as the trustee.

C. The trustee shall serve at the cost and expense of WMI and IDS, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its

services, all remaining money shall be paid to WMI and the trust shall then be terminated. The compensation of such trustee shall be reasonable and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. WMI and IDS shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of WMSA, and defendants shall develop financial or other information relevant to such assets as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include either (1) extending the trust and the term of the trustee's appointment, or (2) terminating the trust, ordering rescission of the sale of IDS to WMI, returning IDS to the Clarks, and returning WMSA and the Buffalo Valley Assets to WMI; provided, that if the rescission of the sale of IDS to WMI, and/or the return of IDS to the Clarks, is ordered, said rescission and/or order shall not prevent IDS and WMI from agreeing that the Clarks may repurchase or reacquire IDS at a price or on terms more favorable to the Clarks than the price or terms under which the Clarks sold IDS to WMI.

VI

Notification

A. WMI or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify plaintiff and the Clarks of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest or desire to acquire any ownership interest in WMSA or the Buffalo Valley Assets, together with full details of the same. Within fifteen (15) days after receipt of the notice, plaintiff may request additional information concerning the proposed divestiture, the proposed purchaser, and any other potential purchaser. WMI or the trustee shall furnish the additional information within fifteen (15) days of the receipt of the request. Within thirty (30) days after receipt of the notice or within fifteen (15) days after receipt of the additional information, whichever is later, plaintiff shall notify in writing defendants and the trustee, if there is one, if it objects to the proposed divestiture. If plaintiff fails to object within the period specified, or if plaintiff notifies in writing defendants and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V.A. Upon objection by plaintiff, or by defendants under Section V.A, the proposed divestiture shall not be accomplished unless approved by the Court.

B. Thirty (30) days from the date of entry of this Final Judgment and every thrity (30) days thereafter until the divestiture has been completed, defendants shall deliver to plaintiff a written report as to the fact and manner of compliance with Section IV of this Final Judgment. Each such report shall include, for each person who during the preceding thirty (30) days made an offer, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in WMSA or the Buffalo Valley Assets, the name, address, and telephone number of that person and a detailed description of each contact with that person during that period. Defendants shall maintain full records of all efforts made to divest WMSA and the Buffalo Valley Assets.

VII

Financing

Defendants shall not finance all or any part of any purchase made pursuant to Sections IV or V of this Final Judgment without the prior consent of the plaintiff.

VIII

Compliance inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice, including consultants and other persons retained by the Department, shall, upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, be permitted:

1. access during office hours to inspect and copy all books, ledgers, accounts, correspondence, momoranda, and other records and documents in the possession or under the control of defendants, which may have counsel present, relating to any matters contained in this Final judgment; and

2. subject to the reasonable convenience of defendants and without restraint or interference from them, to interview defendants, their officers, employees, and agents who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendants at their principal offices, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information nor any documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise requied by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents for which a claim of protection may be

asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give ten (10) days notice of defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

IX

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

X

Termination

This Final Judgment will expire on the fifth anniversary of the completion of the divestiture required herein.

XI

Public Interest

Entry of this Final Judgment is in the public interest.

Dated:

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

United States District Judge.

Competitive Impact Statement

The United States, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil proceeding.

I

Nature and Purpose of the Proceeding

Contemporaneously with this pleading, the United States filed a civil antitrust Complaint under section 15 of the Clayton Act, 15 U.S.C. 25, alleging that the proposed acquisition of the stock of Industrial Disposal Service Company, Inc. ("IDS") by Waste Management, Inc. ("WMI") would constitute a violation of section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that the effect of the acquisition may be substantially to lessen competition in commercial containerized waste hauling services in Bexar County, Texas. The Complaint seeks, among other relief, an injunction preventing defendants from, in any manner, combining their businesses.

Simultaneously with the filing of this Competitive Impact Statement, the United States and defendants have filed a stipulation by which they consented to the entry of a proposed Final Judgment designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, as explained more fully below, defendant WMI would be required, within six months, to sell Waste Management of San Antonio ("WMSA"), its waste hauling division operated from facilities in Bexar County, along with all of WMI's rights in one landfill permit application. If it were not to do so, a trustee appointed by the Court would be empowered for an additional six months to sell WMSA and the landfill permit application. If the trustee is unable to do so, the Court is empowered to prolong the trustee period or to order rescission of WMI's purchase of IDS's stock.

The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations of the proposed Final Judgment.

II

Events Giving Rise to the Alleged Violation

WMI is the world's largest company engaged in the solid waste hauling and disposal business, with operations in 45 states and several foreign countries. It had total revenues of over $2 billion from solid waste hauling and disposal in 1986, and had approximately $5 million in revenues from Bexar County, Texas in 1987. IDS is the largest company offering such services in Bexar County, Texas. IDS had total revenues of over $17.5 million in its 1987 fiscal year.

On January 6, 1988, WMI, IDS and the owners of IDS, Richard R. and Andrew A. Clark ("the Clarks") entered into a letter of intent under which they agreed that WMI would purchase all the voting common stock of IDS. In effect, the businesses of IDS would be merged with those of WMSA, including their commercial containerized waste hauling businesses. Solid waste hauling services, including commercial containerized waste hauling services, are described in greater detail below.

A. The Solid Waste Hauling Industry

Solid waste hauling is the collection of paper, food, construction material and other solid wastes from homes, businesses and industries, and transporting that waste to a landfill or other disposal site. These services may be provided by private haulers directly to residential, commercial and industrial customers, or indirectly through municipal contracts and franchises. The most common method of solid waste disposal is burial in a sanitary landfill. Landfills may be owned and operated by a municipality or county, but many are owned and operated by private waste hauling firms.

Service to commercial customers accounts for more hauling revenues than service to any other type of customer in Bexar County. Commercial customers include restaurants, large apartment complexes, retail and wholesale stores, office buildings and industrial parks. These customers typically generate far more waste than residential customers, and generally place their trash in metal containers of various volumes (one to ten cubic yards) provided by their hauling firm. Commercial customers are served primarily by front-load vehicles that lift the containers over the front of the truck by means of a hydraulic hoist and empty them into the storage section of the vehicle, where it is compacted. Automated sideloaders can also be used to service some commercial customers, but these trucks cannot physically handle any container larger than four cubic yards. The trucks used to service commercial customers can drive directly up to a container and hoist the container in a manner similar to a forklift hoisting a pallet; the containers do not need to be manually rolled into position by a truck crew. Containers are not interchangeable among truck types. Service to these customers is called "commercial containerized hauling service."

Solid waste hauling firms also provide service to residential and industrial (or "roll-off") customers. Residential customers are households and small apartments that generate small amounts of waste, normally disposed of at curbside in plastic bags or trash cans. Rear and manual side-load vehicles generally serve these customers (and business establishments that generate relatively small quantities of solid waste, similar in amount to that generated by residential customers). They use a one- or two-person crew which manually loads the waste into the

rear or side of the vehicle. Industrial or roll-off customers include factories and construction sites; these customers generate the largest amount of waste, which is often non-compactible, such as concrete or building debris. These customers deposit their waste in very large containers (30–40 cubic yards) that are loaded onto a roll-off truck and transported individually to the disposal site where they are emptied before being returned to the customer's premises.

B. Commercial Containerized Hauling Services

Front load trucks, automated side-load trucks, and containers up to 10 cubic yards are used to provide commercial containerized hauling service. This service is called "commercial" service because nearly all customers are commercial establishments.

There is no reasonable substitute to which a significant number of customers would turn in response to a small but significant and nontransitory price increase in commercial containerized hauling services. Residential-type hand service is not a good substitute because, except at very small volumes, it is too impractical and costly for commercial customers to bag and carry their trash to the curb for hand pickup, nor does hand pickup provide equivalent cleanliness and freedom from scavengers. Roll-off service is not a good substitute because, except at very large volumes, it is much more costly than commercial containerized service. The Complaint alleges that commercial containerized hauling services in Bexar County, Texas constitutes a line of commerce and a relevant market (hereinafter "Bexar County commercial containerized market") for antitrust purposes.

Entry into the commercial containerized market cannot be relied upon to discipline collusion or supracompetitive pricing in that market. Collusion in the trash hauling industry has been recurring and has persisted for long periods in a number of markets, undeterred by new entry.

A new entrant cannot constrain immediately the prices of larger incumbents. Before it can do so, the new firm's costs must be in line with larger incumbent firms. This will not occur until the entrant achieves minimum efficient scale and achieves operating efficiencies comparable to incumbent firms. To achieve comparable operating efficiency, a new entrant must first obtain comparable route density, which typically takes a substantial period of time. By the use of pricing and long-term contracting practices, incumbent firms can and do make it difficult for new entrants to win customers from incumbents.

Further, even if a new entrant endures and grows to a point near minimum efficient scale, incumbent firms often purchase such companies as they are about to achieve minimum efficient scale, removing the entrant as a competitive threat. This practice has been followed consistently in the San Antonio area.

Finally, new entrants require assured disposal at prices that will not significantly disadvantage them compared with their hauling competitors. This is because disposal costs account for approximately 20 percent of revenues for commercial containerized hauling service. Currently, each of the incumbent firms has substantial volume discounts at the open landfills in Bexar County that would not be available to a new entrant, at least until after it reaches minimum efficient scale and can generate volumes as large as the incumbents. This cost disadvantage inhibits the ability of a new entrant to grow to the size that would permit it to make use of such discounts. Consequently, a new entrant in hauling may also need to acquire a landfill to compete successfully in the long run in the Bexar County solid waste hauling markets. Currently, only BFI and the City own landfills in Bexar County.

IDS and WMI are the only firms capable of opening new landfills in Bexar County within the next two to three years, because they own or control the only pending landfill permit applications there. Opening a new landfill is time-consuming and expensive due to government regulations, scarcity of suitable landfill sites, and public opposition. In Bexar County, a firm beginning the landfill permit application process can expect to spend at least three years and hundreds of thousands of dollars to perfect the application, with no assurance of success. Consequently, a lack of access to disposal at prices comparable to incumbent hauling firms is a substantial barrier to entry into hauling markets.

IDS and WMI are direct competitors in the Bexar County commercial containerized market and are the first and third largest firms in that market. The market is highly concentrated and would become substantially more concentrated as a result of the proposed acquisition of IDS by WMI. Based on 1987 revenue data, IDS and WMI have, respectively, about 48 percent and 16 percent of the Bexar County commercial containerized market. The acquisition would create a dominant firm with a market share of about 64 percent and would increase the Herfindahl-Hirschmann Index ("HHI"),[1] a measure of market concentration, by 1536, to more than 5000.

Based on the foregoing and other facts, the Complaint alleges that the effect of the proposed acquisition may be substantially to lessen competition in the Bexar County commercial containerized market in violation of Section 7 of the Clayton Act.

III

Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the acquisition in the Bexar County commercial containerized hauling market by establishing a new, independent and economically viable competitor in that market. The proposed Final Judgment requires WMI and IDS, within six months of its filing, to divest the solid waste hauling and disposal assets of WMSA, with some exceptions described below. If WMI and IDS cannot accomplish these divestitures within the above period, the Final Judgment provides that, upon application by the United States as plaintiff, the Court will appoint a trustee to effect divestiture.

As defined in the proposed Final Judgment, "WMSA" means Waste Management of San Antonio, a division of an indirect wholly-owned WMI subsidiary that currently provides solid waste hauling and disposal services in the San Antonio, Texas area. WMSA does not include WMI's Comal County landfill, or its two pending applications for landfills in Bexar or Guadalupe Counties.

The proposed Final Judgment not only relates to the commercial containerized hauling assets of WMSA, but also to all other hauling assets and to certain disposal assets. WMSA also offers residential and roll-off hauling services; it owns an operating Type 1 landfill in Comal County, a permit application for a Type 1 landfill in Bexar County ("Rosillo Creek") and has an option to

[1] The Herfindahl-Hirschman Index is a measure of market concentration calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20 and 20 percent, the HHI is 2600 (30 squared + 30 squared + 20 squared + 20 squared = 2600). The HHI, which takes into account the relative size and distribution of the firms in a market, ranges from virtually zero to 10,000. The index approaches zero when a market is occupied by a large number of firms of relatively equal size. The index increases as the number of firms in the market decreases and as the disparity in size between the leading firms and the remaining firms increases.

purchase a third Type 1 landfill site located on both sides of the border of Bexar and Guadalupe Counties ("Buffalo Valley") for which an application is pending. IDS owns the only other landfill permit applications in Bexar County—a site near the current City landfill ("Covel Gardens") and a permit application that has been denied because of land-use problems, but is still in litigation ("Converse").

The United States concluded that inclusion in the divestiture of residential and roll-off hauling assets was crucial to assuring that the divestiture produced a viable and effective competitor in the affected market. As a result, the proposed Final Judgment obligates WMI and IDS to divest the residential and roll-off hauling assets of WMSA. It also requires divestiture of all WMI's rights in the application for a permit for a Type 1 landfill at the Buffalo Valley site (the "Buffalo Valley Assets"). The proposed Final Judgment states a preference that the same purchaser buy both WMSA and the Buffalo Valley Assets.

The proposed Final Judgment also obligates WMI and IDS to guarantee that WMSA may dispose of unlimited amounts of waste at a landfill in Bexar County at a price not to exceed $2.00 per cubic yard for a period of three and one-half years (which price may be increased pursuant to an agreed escalation formula after January 1, 1990) and to reimburse WMSA for any higher costs it incurs. The obligation to guarantee this disposal rate terminates, however, if WMSA acquires an operating landfill. The Final Judgment further obligates defendants to take no actions, directly or indirectly, to oppose any landfill permit applications divested pursuant to the Final Judgment.

WMI and IDS are allowed six months following the filing of the proposed Final Judgment to accomplish divestiture of WMSA and the Buffalo Valley Assets to a company or companies that will operate the divested assets as an independent, viable competitor. If WMI and IDS have not accomplished the required divestiture within that period, the Court shall, on application of the plaintiff, appoint a trustee to accomplish the divestiture.

The proposed Final Judgment provides that WMSA and the Buffalo Valley Assets must be divested in such a way as to satisfy plaintiff that these operations can and will be operated by the purchaser or purchasers as viable, ongoing businesses that can compete effectively in the relevant markets. Similarly, if the divestiture is accomplished by the trustee, WMSA and the Buffalo Valley Assets must be divested in such a way as to satisfy plaintiff that the businesses can and will be operated as a viable, independent competitor by the purchaser or purchasers. WMI and IDS must take all reasonable steps necessary to accomplish the divestiture and shall cooperate with bona fide prospective purchasers and, if one is appointed, the trustee.

If a trustee is appointed, the proposed Final Judgment provides that the WMI and IDS will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which divestiture is accomplished. After his appointment becomes effective, the trustee will file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture. At the end of six months, if he has not accomplished the divestiture, the trustee and the parties will make recommendations to the Court and the Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment, or terminating the trust and rescinding the sale of IDS to WMI, returning WMSA and the Buffalo Valley Assets to WMI and returning IDS to its prior owners.

By the terms of a Hold Separate Stipulation and Order, which was filed simultaneously with the proposed Final Judgment, defendants must take certain steps to ensure that, until the required divestiture has been accomplished, WMI and IDS will be held separate and apart from defendants' other assets and businesses. WMI and IDS must, until the required divestiture is accomplished, preserve and maintain WMSA as a saleable and economically viable ongoing business.

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V

Procedure Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The Act conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The Act provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determined whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Mark C. Schechter, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, United States Department of Justice, Room 9104 Judiciary Center Building, 555 4th Street, NW. Washington, DC 20001.

VI

Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, also requiring the divestiture of WMI's operating Type 1 landfill in Comal County, Texas, and/or more than one pending landfill permit application, but decided against it, The Comal County landfill is located outside the relevant disposal market defined by the United States. A hauler would need to travel 20–30 miles further to dump at the Comal site than to open landfills in Bexar County. The United States also considered requiring divestiture of two pending landfill permit applications, either a second application outright or as a back-up in the event Buffalo Valley fails to gain approval. Since WMI currently operates no landfill in Bexar County, however, the United States decided that divesting a second application would reduce WMI's chances of gaining its first landfill (which would reduce the current

concentration in the disposal market) without significantly increasing WMSA's viability. The United States concluded that the divestitute of the application for the Type 1 landfill at the Buffalo Valley site, plus the guaranteed 3½-year disposal rate, which is less than either the City or BFI gate rate, is an adequate method for assuring the WMSA's disposal costs will permit it to compete effectively.

Litigation is, of course, always an alternative to a consent decree in a section 7 case. The United States could have filed suit and sought preliminary and permanent injunctions against the acquisition of IDS by WMI. The United States is satisfied, however, that the divestitute of WMSA and the Buffalo Valley landfill site application, and the 3½-year disposal rate guarantee, will establish a viable competitor in the Bexar County commercial containerized hauling market and prevent the acquisition from having anticompetitive effects in that market. The divestiture will restore the market to the structure that existed prior to the acquisition, and will preserve the existence in it of three significant competitors.

VII

Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated:

Respectfully submitted.

Roger W. Fones,

Nancy H. McMillen,

Attorneys, U.S. Department of Justice, Antitrust Division, Room 9804, 555 Fourth Street, NW Washington, DC 20001, (202) 724-6386.

[FR Doc. 88-21069 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications, on behalf of Bellcore and Landis and Gyr ("L&G") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasnat Avenue, Livingston, New Jersey 07039.

L&G is a Delaware corporation with its principal place of business at 8 Skyline Dirve, Hawthorne, New York 10532.

Bellcore and L&G entered into an agreement effective July 1, 1988 to collaborate on research to understand the engineering problems related to the establishment of network interface standards and protocols for exchange and exchange access service and generally for the public telephone industry.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 88-21072 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby giving that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications, on behalf of Bellcore and TELETTRA-Telefonia Elettronica e Radio S. p. A. ("Telettra") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

Telettra is an Italian corporation with its principal place of business at 136 Viale Fulvio Testi, Cinisella Balsamo, Milan, Italy.

Bellcore and Telettra entered into an agreement effective July 25, 1988 to collaborate on research to understand the application of certain advanced algorithms and new technology and equipment in the area of video transmission for exchange and exchange access service, demonstrating the feasibility of research concepts by means of experimental prototypes and experimental systems of such technology and equipment, and undertaking research to provide a basis for related submissions to public standards organizations.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 88-21073 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Portland Cement Association

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission on August 9, 1988 disclosing that the following firm has joined PCA:

Glens Falls Portland Cement Company, Inc. (effective July 28, 1988)

The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Accordingly, at present the members of the PCA are those companies listed below:

United States

Aetna Cement Corporation
Alamo Cement Company
Alaska Basic Industries
Ash Grove Cement Company
Ash Grove Cement West, Inc.
Blue Circle Atlantic, Inc.
Blue Circle, Inc.
Blue Circle West Inc.
Calaveras Cement Company
CalMat Co.
Capitol Aggregates, Inc.
Capitol Cement Corporation
Continental Cement Copany Inc.
Davenport Cement Company
Dragon Products Company
Dundee Cement Company
Glens Falls Portland Cement Company, Inc.
Hawaiian Cement
Ideal Basic Industries, Inc.
Independent Cement Corporation
Lafarge Corporation

Lehigh Portland Cement Company
LoneStar-Falcon
Lone Star Industries, Inc.
Lone Star Northwest
Medusa Cement Corporation
Missouri Portland Cement Company
The Monarch Cement Company
Moore McCormack Cement, Inc.
Northwestern States Portland Cement Co.
Phoenix Cement Company
Rinker Materials Corporation
RMC Lonestar
Rochester Portland Cement Corporation
St. Marys Peerless Cement Company
St. Marys Wisconsin Inc.
The South Dakota Cement Plant
Southwestern Portland Cement Company
Tarmac-LoneStar, Inc.
Tilbury Cement Company

Canada

Federal White Cement Ltd.
Ideal Cement Company Ltd.
Inland Cement Limited
Lafarge Canada Inc.
Lake Ontario Cement Limited
North Star Cement Limited
St. Lawrence Cement Inc.
St. Marys Cement Corporation
Tilbury Cement Limited

Mexico

Instituto Mexicano del Cemento y del Concreto (IMCYC)
Cementos Acapulco, S.A.
Cementos Apasco, S.A.
Cementos de Chihuahua, S.A.
Cementos Mexicanos, S.A.
Cementos Moctezuma, S.A.
Cooperativa de Cementos Cruz Azul
Cooperativa de Cementos Hidalgo

Affiliate Members

Cement and Concrete Promotion Council of Texas
Florida Concrete and Products Association
Mississippi Concrete Industries Association
North Central Cement Promotion Association
Northern California Cement Promotion Group
Northwest Concrete Promotion Group
Rocky Mountain Cement Promotion Council
South Central Cement Promotion Association

In addition, the following equipment suppliers are involved as "Participating Associates," together with PCA members, in the activities of the Manufacturing Process Subcommittee of PCA's General Technical Committee:

Baker-Dolomite (DBCA)
C-E Raymond
Holderbank Consulting Ltd.
Humboldt Wedag Company
F. L. Smidth and Company
Claudius Peters, Inc.
Polysius Corp.
The Fuller Company
W.R. Grace & Company

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985, 50 FR 5015. On March 14, 1985, August 13, 1985, January 3, 1986, February 14, 1986, May 30, 1986, July 10, 1986, December 31, 1986, February 3, 1987, April 17, 1987, June 3, 1987, July 29, 1987, August 6, 1987, October 9, 1987, February 18, 1988, March 9, 1988, March 11, 1988, and July 7, 1988, PCA filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on April 10, 1985 (50 FR 14175), September 16, 1985 (50 FR 37594), February 4, 1986 (51 FR 4440), March 12, 1986 (51 FR 8573), June 27, 1986 (51 FR 23479), August 14, 1986 (51 FR 29173), February 3, 1987 (52 FR 3356), March 4, 1987 (52 FR 6635), May 14, 1987 (52 FR 18295), July 10, 1987 (52 FR 28183), August 26, 1987 (52 FR 32185), November 17, 1987 (52 FR 43953), March 28, 1988 (53 FR 9999), and August 4, 1988 (53 FR 29397) respectively.

Joseph H. Widmar,
Director of Operations, Antitrust Division.
[FR Doc. 88-21071 Filed 9-14-88; 8:45 am]
BILLING CODE 4410-01-M

National Cooperative Research; Lubricating Oil in Diesel Particulate Emissions Southwest Research Institute

Notice is hereby given that, on August 16, 1988, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a party to its group research project regarding "The Importance of Lubricating Oil in Diesel Particulate Emissions." The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the SwRI advised that Castrol Limited has become a party to the group research project.

No other changes have been made in either the membership or planned activity of the group research project.

On August 21, 1987, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 18, 1987 (52 FR 35335). On December 22, 1987, SwRI filed an additional written notification. The Department published a notice in the **Federal Register** in response to the additional notification on January 19, 1988 (53 FR 1418). On May 20, 1988 SwRI filed an additional written notification. The Department published a notice in the **Federal Register** in response to the additional notification on June 23, 1988 (53 FR 23704).

Joseph H. Widmar,
Director of Operations, Antitrust Division.
[FR Doc. 88-21065 Filed 9-14-88; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

Hilltop Pharmacy; Denial of Application for Registration

On June 29, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Hilltop Pharmacy, of Mobile, Alabama, proposing to deny its application for registration as a retail pharmacy, executed on July 28, 1987, for reason that the pharmacy's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f).

The Order to Show Cause was received by Hilltop Pharmacy on July 5, 1988. More than thirty days have passed since the pharmacy received the Order to Show Cause. The pharmacy has not responded. Thus, the Administrator concludes that Hilltop Pharmacy has waived its opportunity for a hearing on the issues raised in the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order without a hearing and based upon information contained in the investigative file. 21 FR 1301.57.

The Administrator finds that in February 1986, the Mobile Police Department, Narcotics Division, received reliable information concerning possible illegal controlled substance handling activities taking place at Hilltop Pharmacy. A cooperating individual reported to the police that an individual named Randolph Bridges was purchasing large quantities of Talwin, a Schedule IV controlled substance, and pyribenzamine (PBZ), a legend drug, from Daniel M. Brabham, R.Ph., the

owner and registered pharmacist of Hilltop Pharmacy.

The Administrator notes that the combination of Talwin and pyribenzamine is commonly known as "T's and Blues" in the illicit drug market. This combination produces a heroin-like effect on its users and is highly abusable and dangerous.

On February 24, 1987, officers from the Mobile Police Department set up a surveillance operation at Hilltop Pharmacy, and observed Randolph Bridges entering and exiting the pharmacy. Bridges was stopped and searched a few blocks away from the pharmacy and was found in possession of four unlabeled bottles; two bottles contained 500 dosage units of pyribenzamine tablets each, one bottle contained approximately 100 Talwin tablets, and one bottle contained approximately 14 ounces of Tussionex suspension. In a statement to the police, Bridges claimed that he received drugs from Mr. Brabham, for other than legitimate medical purposes, particularly Talwin, Tussionex, pyribenzamine, as well as other drugs, approximately twice a week over the course of one year.

On March 11, 1987, the Mobile Police Department made an undercover purchase of approximately 100 dosage units of Talwin NX tablets from Mr. Brabham at Hilltop Pharmacy, without the benefit of a written prescription for the drugs. A similar undercover purchase of approximately 42 dosage units of Valium tablets was made on march 13, 1987. On March 19, 1987, the police conducted a final undercover purchase of controlled substances from Hilltop pharmacy. On that date, Mr. Brabham dispensed approximately 999 dosage units of pyribenzamine tablets and 100 dosage units of Talwin NX tablets to Bridges in exchange for $430.00, without receiving a prescription for the drugs.

Following the service of a criminal search warrant at Hilltop Pharmacy on March 19, 1987, an audit of the pharmacy's controlled substance stock was conducted by the Alabama Board of Pharmacy for the period from January 1, 1986, to March 19, 1987. The audit revealed excessively large and unexplained shortages of several controlled substances, including the following: 4,032 dosage units of Talwin NX tablets; 788 dosage units of Dilaudid 4 mg. tablets; 1,068 dosage units of diazepam 5 mg. (generic); 1,186 dosage units of diazepam 10 mg. (generic) and Valium 10 mg. tablets, combined; and 430 ounces of Tussionex liquid.

Also on March 19, 1987, Mr. Brabham executed voluntary surrender of DEA Certificate of Registration AC9084170, previously issued to Hilltop Pharmacy.

Based upon the three undercover purchases of controlled substances from Hilltop Pharmacy on March 20, 1987, the Mobile Police Department, Narcotics Section, arrested Daniel M. Brabham, R.Ph. and charged him with one count of unlawful sale of controlled substances, to wit: Pentazocine, in violation of Section 20-7-20 of the Alabama Code, a felony offense relating to controlled substances. Mr. Brabham was convicted of that offense, after entering a plea of guilty on July 8, 1988. He was sentenced to 15 years imprisonment, all but 60 days of which were suspended pending good behavior for a period of five years, and was fined $25.00.

On July 1, 1987, Mr. Brabham transferred ownership of Hilltop Pharmacy to Julie Brabham, his wife, for the sum of one dollar. Mrs. Brabham subsequently obtained a pharmacy permit for Hilltop Pharmacy from the Alabama Board of Pharmacy, and executed a DEA New Application for Registration on July 28, 1987.

The Administrator also finds that on August 3, 1987, the Alabama Board of Pharmacy revoked the pharmacy permit of Hilltop Pharmacy, as issued to Mr. Brabham, along with Mr. Brabham's pharmacist's license, effective November 3, 1987. The revocation order was based, in part, on the following violations: Dispensing Schedules II, III, and IV controlled substances without receiving written or oral prescriptions from authorized physicians; failure to maintain inventories and records of controlled substances; obtaining or possessing controlled substances by fraud, deceit, misrepresentation, or subterfuge; and failure to maintain accurate records of all controlled substances received and dispensed by the pharmacy.

The DEA New Orleans Field Division recently received information from the Alabama Board of Pharmacy that Hilltop Pharmacy has discontinued business as a pharmacy, and is no longer in operation. Under 21 CFR 1301.62, a registration terminates if and when a registrant ceases legal existence, deceases, or discontinues business or professional practice. Likewise, logic dictates that the Administrator cannot issue a new registration, pursuant to a pending application, to an applicant such as Hilltop Pharmacy, who has discontinued its business.

In addition to finding that the application should be denied based upon the pharmacy's discontinuation of business, the Administrator finds that the controlled substance handling practices at Hilltop Pharmacy were deplorable. Motivated only by greed and avarice, Mr. Brabham routinely dispensed large quantities of dangerous controlled substances for other than legitimate medical purposes. In additon, the pharmacy's controlled substance records were not maintained in accordance with Federal or State laws or regulations.

The Drug Enforcement Administration has consistently held that an application for registration by a pharmacy may be denied as a result of the conviction or improper controlled substance handling practices of the pharmacy's owner. See *Bourne Pharmacy, Inc.*, Docket No. 83-32, 49 FR 32816 (1984); *Ozie T. Faison, Jr., d.b.a. Smith Discount Drugs*, Docket No. 85-37, 51 FR 16403 (1986); and *White's Best Buy Drugs*, Docket No. 87-41, 53 FR 7251 (1988).

The Administrator notes that the pharmacy's new application for registration, executed on July 28, 1987, bears the signature of Julie Brabham. The Administrator has long held that applications for registration should be denied where there is a likelihood that a transfer of ownership or control of business is actually an attempt to contravene the effects of a revocation or denial of a DEA Certificate of Registration. See *Darrow Drug, Inc.*, Docket No. 83-35, 49 FR 39246 (1984), which involved an owner-pharmacist convicted of illegal sale of controlled substances. In *Darrow*, the Administrator found that even though the owner transferred ownership and control of the pharmacy to his wife, the pharmacy registration had to be revoked since it was quite likely that the convicted pharmacist would influence the operation of the pharmacy.

In finding that Mrs. Brabham's application for registration should be denied, the Administrator also relies on his decision in *K&B Successors, Inc.*, Docket No. 82-15, 49 FR 34588 (1984). In that case, the husband's transfer of full ownership to his wife was insufficient to override the threat to the public interest created by authorizing the pharmacy to handle controlled substances. The Administrator was unable to find that the pharmacy would be in safe and responsible hands if its ownership merely transferred from one spouse to the other. That logic is compelling in the case of Hilltop Pharmacy. The transfer of ownership did not constitute an arms-length transaction between the owner and a disinterested third-party. Instead, the pharmacy was transferred for the sum of one dollar, presumably a sum considerably less than the market value of the business, to Mr. Brabham's wife, who certainly cannot be characterized

as a disinterested third-party. Mr. Brabham is not currently incarcerated and could easily remain active in the operation of Hilltop Pharmacy. In addition, both Mr. and Mrs. Brabham benefited financially by Mr. Brabham's previous illegal activities involving controlled substances. Based upon the foregoing, the Administrator cannot conclude that the public interest would be served by granting the pending application for registration for Hilltop Pharmacy. Instead, the Administrator finds that the public interest demands the denial of said application for registration.

Having concluded that the pending application for registration for Hilltop Pharmacy must be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that the application for registration, executed by Julie Brabham for Hilltop Pharmacy on July 28, 1987, be, and it hereby is, denied.

This order is effective September 15, 1988.

John C. Lawn,

Administrator.

[FR Doc. 88-20986 Filed 9-14-88; 8:45 am]

BILLING CODE 4410-09-M

MERIT SYSTEMS PROTECTION BOARD

Appointment of Members to the Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice of appointment of members to the Performance Review Board.

SUMMARY: This notice publishes the names of new and current members of the Performance Review Board as required by 5 U.S.C. 4314(c)(4).

Llewellyn M. Fischer will continue to serve as Chairman of the Performance Review Board (PRB) for Senior Executives in the U.S. Merit Systems Protection Board. Dolores Rozzi and Lonnie Crawford have been appointed as new members. Also, Harold Kessler and R.J. Payne will continue to serve on the PRB.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: P.J. Winzer, Acting Director, Personnel Division, U.S. Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419. (653-5916)

Date: September 12, 1988.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 88-21027 Filed 9-14-88; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[88-79]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Informal Executive Subcommittee.

DATE AND TIME: September 27, 1988, 1 p.m. to 5 p.m., and September 28, 1988, 8:30 a.m. to 12 Noon.

ADDRESS: NASA Headquarters, Room 226B, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1430).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Informal Executive Subcommittee will meet to formulate plans for the Committee's future. The Committee is chaired by Dr. Berrien Moore and is composed of 6 members. The meeting will be closed to the public. The sole agenda item will be planning for the coming year of the activities of the Committee with emphasis throughout on prospective future membership and their interactions with NASA and outside parties. Throughout the sessions, the qualifications of these individuals will be candidly discussed and appraised with respect to the tasks to be accomplished. Because the meeting will be concerned throughout with matters listed in 5 U.S.C. 552(c)(6), it has been determined that this meeting should be closed to the public.

Type of Meeting. Closed.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-21056 Filed 9-14-88; 8:45 am]

BILLING CODE 7510-01-M

[Notice 88-78]

NASA Advisory Council (NAC), Space Station Advisory Committee (SSAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Advisory Committee.

DATE AND TIME: September 20, 1988, 8:30 a.m. to 5 p.m. and September 21, 1988, 8:30 a.m. to 1 p.m.

ADDRESS: Capitol Holiday Inn, Columbia North, 550 C Street SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. W.P. Raney, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-4165.

SUPPLEMENTARY INFORMATION: The Space Station Advisory Committee (SSAC) is a standing committee of the NASA Advisory Council, which advises senior management on all Agency activities. The SSAC is an interdisciplinary group charged to advise Agency management on the devlopment, operation, and utilization of the Space Station. The committee is chaired by Mr. Laurence J. Adams and is composed of 20 members including individuals who also serve on other NASA advisory committees.

This meeting will be open to the public up to the seating capacity of the room, (which is approximately 50 persons including team members and other participants). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

Type of Meeting: Open.

Agenda

September 20, 1988

8:30 a.m—Administrative Items
9 a.m.—Program Update
- Congressional
- Requirements Review
- Commercial Initiatives

10 a.m.—FY-89 Appropriations
Adjustments
110:45 a.m.—Related Programs, FY-89
Office of Space Flight
Office of Space Operations
Office of Space Science and Applications
Office of Aeronautics and Space Technology
11:45 a.m—Special Studies
1:15 p.m.—International Participation Agreements
Obligations
Management
2:15 p.m.—Implementation Plans
Documentation
Management
3:15 p.m.—SSSAAS Summer Workship
4 p.m.—Panel on Requirements
4:30 p.m.—Communications
5 p.m.—Adjourn

September 21, 1988

8:30 a.m.—Panel on System Engineering and Integration
9:30 a.m.—Panel on Short-Term/Long-Term Balance
10:30 a.m.—Committee Discussion
12 Noon—Discussion of Membership
1 p.m.—Adjourn

September 9, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-21020 Filed 9-14-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment on the Arts; Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Creative Writing Fellowships—Poetry Section) to the National Council on the Arts will be held on October 3-5, 1988, from 9:00 a.m.-5:30 p.m., in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting wil be open to the public on October 5, from 3:30-5:30 p.m. The topic for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on October 3-4, from 9:00 a.m.-5:30 p.m., and on October 5, from 9:00 a.m.-3:30 p.m., are for the purpose of Panel review, discussions, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

September 9, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88-20982 Filed 9-14-88; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Earth Sciences Proposal Review Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Continental Lithosphere Subpanel.

Date: October 3, 4 and 5, 1988.

Time: 8:30 a.m. to 5:30 p.m. each day.

Place: The National Science Foundation, Room 642, 1800 G Street NW., Washington, DC 20550

Type of Meeting: Closed.

Contact Person: Dr. David Speidel, Head, Major Projects Section, Earth Science, Room 602, National Science Foundation, Washington, DC 20550; Telephone (202) 357-9591.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in the Continental Lithosphere Program, Division of Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

September 12, 1988.

[FR Doc. 88-21100 Filed 9-14-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ecology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecology.

Date and Time: October 6 & 7, 1988—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Patrick J. Webber, Program Director, Ecology (202) 357-9734, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

September 12, 1988.

[FR Doc. 88-21101 Filed 9-14-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ecosystem Studies; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecosystem Studies.

Date and Time: October 6 & 7, 1988—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. William J. Parton, Program Director, Ecosystem Studies (202) 357-9596, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88-21102 Filed 9-14-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee to the Directorate for Science and Engineering Education; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee to the Directorate for Science and Engineering Education.

Date and Time: Thursday, September 29, 1988, 9:00 a.m.—5:00 p.m. Friday, September 30, 1988, 9:00 a.m.—3:00 p.m.

Place: National Science Foundations, Room 540, Washington, DC.

Type of Meeting: Open.

Contact Person: Mr. James G. Cook, Executive Secretary AC/SEE, Directorate for Science and Engineering Education, National Science Foundation, Room 516, Washington, DC 20550. (202) 357-7926.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning NSF support for science and engineering education.

Agenda:

September 29-30, 1988

Review of FY 1988 Programs and Initiatives

Review of FY 1989 Programs and Initiatives

Strategic Planning for FY 1990 and Beyond

M. Rebecca Winkler,

Committee Management Office.

September 12, 1988.

[FR Doc. 88-21099 Filed 9-14-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Systematic Biology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and Time: October 3 & 4, 1988—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. William S. Moore, Program Director Systematic Biology (202) 357-9588, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

September 12, 1988.

[FR Doc. 88-21103 Filed 9-14-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-282 and 50-306]

Northern States Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix K to 10 CFR Part 50 to Northern States Power Company (the licensee) for the Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, located in Goodhue County, Minnesota.

Environmental assessment

Identification of Proposed Action:

The exemption would grant relief from the requirements of 10 CFR Part 50, Appendix K, Sections I.D.3 and I.D.5, as these requirements relate to the calculational method for determining the core exit flow without establishing the carryover fraction and the heat transfer analysis during the refill and reflood phase of a loss of coolant accident (LOCA). These calculations are part of a thermal/hydraulic analysis that demonstrates the existing emergency core cooling system (ECCS) will provide adequate protection of the reactor fuel during a LOCA.

The exemption is responsive to the licensee's application for exemption dated July 28, 1988.

The Need for the Proposed Action:

The proposed exemption is needed because the features described in the licensee's request indicate that the method assumed for injecting cooling water into the reactor in thermal/hydraulic analysis is different than the actual method used at the plant. The evaluation model for analyzing potential accidents assumed cooling water would enter the reactor via the lower plenum, while the pipe configuration of the plant injects cooling water in the upper plenum of the reactor.

Environmental Impacts of the Proposed Action:

The proposed exemption deals with the calculational method in the analysis of a potential accident. The exemption does not affect in any way the plant operating characteristics or procedures, components or systems. Consequently, the exemption does not increase the probability of any accident, and radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. With regard to potential nonradiological impacts, the proposed exemption will in no way affect environs located outside the restricted area as defined in 10 CFR Part 20. It does not affect in any way the nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or nonradiological impacts associated with the proposed exemption.

Alternative to the Proposed Action:

The Commission has concluded that there is no measurable impact

associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources:

This action involves no use of resources not previously considered in the Final Environmental Statements for the Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2.

Agencies and Persons Consulted:

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Base upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the exemption dated July 28, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 9th day of September 1988.

For the Nuclear Regulatory Commission.

Dominic C. Dilanni,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 88-21041 Filed 9-14-88; 8:45 am]

BILLING CODE 7590-01-M

Correction to Bi-Weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

On September 7, 1988, The Federal Register published the Bi-weekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On Pare 34623, Column 2, the heading, Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration, and the subsequent three paragraphs should be replaced with the following:

Previously Published Notices of Consideration of Issuance of Amendments to Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Dated at Rockville, Maryland, this 9th day of September 1988.

For The Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects—I/II.

[FR Doc. 88-21042 Filed 9-14-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 55-08347; ASLBP NO. 88-577-02-EA]

Maurice P. Acosta, Jr., Operator License No. 6010-2 EA 88-164; Order

September 9, 1988.

Before Administrative Judges: B. Paul Cotter, Jr., Chairman, Harry Foreman, Kenneth A. McCollom.

Upon consideration of the July 1, 1988 appeal of Mr. Acosta to the Director, Office of Enforcement, and the establishment of this Board on August 18, 1988 to hear said appeal, it is this 30th day of August, 1988.

Ordered

That a prehearing conference will be held in or near San Diego, California on Tuesday, October 18, 1988, to discuss issues in the case and to set a schedule for proceeding to hearing.

For the Atomic Safety and Licensing Board.

B. Paul Cotter, Jr.,

Chairman, Administrative Judge.

Dated at Bethesda, Maryland, this 9th day of September 1988.

[FR Doc. 88-21038 Filed 9-14-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-440]

The Cleveland Electric Illuminating Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58, issued to the Cleveland Electric Illuminating Company, et al. (the licensees) for operation of the Perry Nuclear Power Plant, Unit No. 1 located in Lake County, Ohio.

The amendment would revise Technical Specification Table 3.8.4.1-1 to delete circuit breakers that are not Containment Penetration Conductor Overcurrent Protection Devices (spare breakers) and to correct typographical errors in the table.

Before issuance of the proposed license amendment, 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 amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evalutated; or (3) involve a significant reduction in a margin of safety.

The licensees have provided the following analyses concerning no significant hazards considerations:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

As stated above, all of the proposed changes are to either delete spare circuit breakers from the table or to correct typographical errors on the table. As such there is no increase in the probability or consequences of an accident previously evaluated. Deleting spare circuit breakers can not increase the probability or consequences of any accident, since these breakers are not energized or connected to loads inside or outside of the containment. Correcting the typographical errors assures that the right circuits and circuit breakers are tested, and thus provides

assurance of proper functioning of containment penetration overcurrent protection devices.

(2) The proposed change does not create the possibility of a new or different kind of accident.

Removing spare circuit breakers from the table can not create a new or different kind of accident, since these breakers do not supply electrical power to any component. Correcting the typographical errors to make the circuits and circuit breakers correct can not create a new or different kind of accident. The circuits/components being energized have not changed. There is no new component or circuit being added to the table. Therefore no new or different kind of accident has been created by this proposed change.

(3) The proposed change does not involve a significant reduction in the margin of safety.

The removal of the spare circuit breakers from the table does not change the margin of safety, since these breakers do not supply power to any components. Correcting the typographical errors on the table will not change the margin of safety since the purpose of the table is to list all the containment penetration conductor overcurrent protective devices. Correcting the typographical errors does this. Thus the change involves no significant reduction in the margin of safety.

The staff concurs with the licensees' analyses that the proposed amendment would involve no significant hazards consideration.

Therefore, based on the above information, the Commission proposes to determine that the amendment request involves no 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 will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to P-210, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 8:15 am to 5:00 pm. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 17, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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 request for hearing and a petition for leave to intervene. Requests 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 intevene 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 particularly 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 proceedings 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 pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fiteen (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 that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. 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 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, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, 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 Kenneth E. Perkins: 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 Office of the General Counsel-Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman Potts and Trobridge, 2300 N Steeet NW., Washington, DC 20037, 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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted 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 amendment which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Perry Public Library, 3753 Main Street, Perry, Ohio.

Dated at Rockville, Maryland, this 7th day of September, 1988.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Project Manager, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-21040 Filed 9-14-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. et al., Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 119 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and the Cleveland Electric Illuminating Company (the licensee), which revised the Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment was effective as of the date of its issuance.

The amendment changed the Main Steam Line Isolation valve closure time requirements in section 3/4.3.2 and 3/4.7.1 to make them consistent throughout the Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 23, 1988 (53 FR 9527). No request for hearing or petition for leave to intervene was filed following this notice.

For further details with respect to this action see (1) the application for amendment dated July 27, 1988, (2) Amendment No. 119 to License No. NPF-3, (3) the Commission's related Safety Evaluation dated September 1, 1988 and (4) the Environmental Assessment dated August 25, 1988 (53 FR 33562). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 1st day of September 1988.

For the Nuclear Regulatory Commission.

Albert W. De Agazio, Sr.

Project Manager, Project Directorate III-3 Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-21043 Filed 9-14-88; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A88-8; Order No. 800]

Honey Creek, IA Kenneth and Donna Malone, Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc III.

Issued September 8, 1988.

Docket Number: A88-8

Name of Affected Post Office: Honey Creek, Iowa 51542.

Name(s) of Petitioner(s): Kenneth and Donna Malone.

Type of Determination: Closing.

Date of Filings of Appeal Papers: September 6, 1988.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

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 of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. 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 21, 1988.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[Docket No. A88-8]

Honey Creek, Iowa 51542

September 6, 1988—Filing of Petition

September 8, 1988—Notice and Order of Filing of Appeal

October 3, 1988—Last day of filing of petitions to intervene (*see* 39 CFR 3001.111(b)).

October 11, 1988—Petitioners' Participant Statement or initial Brief (*see* 39 CFR 3001.115(a) and (b)).

October 31, 1988—Postal Service Answering Brief (*see* 39 CFR 3001.115(c)).

November 15, 1988—Petitioners' Reply Brief should Petitioners choose to file one (*see* 39 CFR 3001.115(d)).

November 22, 1988—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).

January 4, 1989—Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 88-20996 Filed 9-14-88; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26067; File No. SR-MCC-88-7]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corporation Relating to Rule Changes and Procedures for Midwest Clearing Corporation's Fund/Serv Service

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 14, 1988, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change (a) establishes an additional Participants' Fund requirement for those Participants using Midwest Clearing Corporation's ("MCC") Fund/Serv Service, an automated procedure for the other entry, confirmation, settlement and registration of mutal fund transactions, (b) makes minor changes to the text of the proposed rule change previously filed with the Commission (SR-MCC-87-5, submitted October 20, 1987, and (c) establishes procedures relating to the processing of Fund/Serv and its use by MCC Participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to (i) establish an additional deposit to the Participants' Fund for those MCC Participants using the Fund/Serv Service, (ii) make technical changes to the text of the Fund/Serv proposed rules which make clear that Fund/Serv input and output data may be submitted directly to, or received from, MCC's designated facilities manager or agent, and (iii) establish procedures for the operation of Fund/Serv.

The proposed rule change establishes an additional cash contribution for those Participants using the three dollar amounts and is based on the maximum size of settlement debits that a Participant might have with *any one* eligible mutual fund. The limit is based on debts with *any one* eligible mutual fund group and not on total debits with more than one fund group. This is because the risk of a multiple default (e.g., a default by the Participant and defaults by more than one contra-side eligible mutual fund group) is less likely than the risk of a double default (e.g., a default by the Participant and one eligible mutual fund group).

The proposed additional Participants' Fund requirement is $5,000 for debit limits up to $100,000, $10,000 for debit limit limits up to $500,000 and $20,000 for debit limits of more than $500,000. Participants will accrue interest in that portion of the Participants' Fund allocated to Fund/Serv. In addition, Fund/Serv settlement debits and credits will not be included in MCC's normal calculation of deposits for non Fund/Serv relating activity.

Fund/Serv differs from the Continuous Net Settlement System in that it is a "non-guaranteed" service. MCC will not guarantee or otherwise stand behind any charges to a Participant or a mutual fund group. If a Participants or a mutual fund group defaults, MCC (or its Facilities Manager) will seek to reverse the payment made to the contra-side. MCC will incur a loss if *both* the Participant and the eligible mutual fund contra-side default and are unable for whatever reason to repay the credit (a "double default").

If MCC suffers a loss or liability resulting from Fund/Serv, MCC first would recover that loss from the Participant's Fund/Serv deposit. MCC would then look to a remainder of the defaulting Participant's Participants' Fund deposit after it exhausted the Fund/Serv deposit. MCC would next look to the remaining Participants' Fund/Serv deposits. If these actions were insufficient to cover the losses, MCC would follow its current loss recovery rules and procedures, e.g., recover the loss from the Contingency Reserve Fund, Participants Fund or existing undivided profits and retained earnings.

The proposed rule change also contains clarifying amendments to MCC's initial Fund/Serv rule filing. The rule changes makes clear that participants shall submit information directly to, or receive output from MCC's facilities manager or designated agent. NSCC has agreed to serve as MCC's facilities Manager in connection with the processing of Fund/Serv transactions.

Finally, the proposed rule change contains procedures for the processing of Fund/Serv transactions. Fund/Serv accepts broker and fund input either by communications link or magnetic type. Participants submit input to Fund/Serv daily and input is edited for required data and information.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act") in that it promotes the prompt and accurate clearance and settlement of mutual fund transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed

with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to SR-MCC-88-7 and should be submitted by October 6, 1988. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

September 8, 1988.

[FR Doc. 88-21030 Filed 9-14-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26068; File No. SR-PSE-88-10]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On May 31, 1988, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to allow members to submit pre-opening option market quote indications.

The proposed rule change was noticed in Securities Exchange Act Release No. 25904 (July 13, 1988), 53 FR 27251 (July 19, 1988). No comments were received on the proposed rule change.

The proposed rule will allow members of a trading crowd to provide pre-opening option market quote indications for an option in that crowd based upon the anticipated opening price of the underlying security. The Options Floor Trading Committee ("Committee") will designate options classes that will be eligible for pre-opening option market quote indications procedures. The Committee plans to designate as eligible all options classes whose underlying security is sold over-the-counter and those option classes whose underlying security shows little market volatility.[3]

For eligible options classes, the Order Book Official ("OBO") will request market quote indications from the crowd before the Exchange opens at 6:30 a.m. Pacific Time ("P.T."), but no earlier than 6:15 a.m. (P.T.). If, after the underlying security has opened, the members confirm the pre-opening option market quote indications, a one-price opening will take place for all series in which brokers in the crowd or the OBO hold market or executable limit orders. After such orders have been executed, the OBO will declare the class open. If the pre-opening option market quote indications are not confirmed, the OBO will conduct a regular opening rotation in that class. The OBO also must direct that an opening rotation take place if the following conditions exist: (1) The OBO fails to receive market quote indications for all series within a class; [4] (2) the underlying security opens substantially higher or lower than the opening price anticipated by the members of the crowd providing the pre-opening market quote indications; [5] (3) there are substantial options order imbalances; or (4) any unusual conditions exist that warrant an opening rotation.

The Exchange states that the purpose of the proposed rule change is to decrease the amount of time required to obtain opening market quotations during the opening rotation. Under certain market conditions, such as the conditions that occurred during the October 1987 market break, it may take up to 45 minutes to obtain opening market quotations for all series of all classes of options traded in a particular pit.[6] On a normal day, it takes 15 to 20 minutes to obtain opening market quotations for all series of all classes of options traded on the Exchange floor.[7]

During a trading rotation, bids, offers, and transactions may occur only in one or a few specified options series at a time, and trading may not occur in any series until it has been reached in the rotation. All exchanges attempt to complete opening rotations as quickly as possible in order that free trading may commence shortly after the opening of an exchange. Free trading is critical to the effectuation by market makers of certain options strategies, including hedging strategies that require positions to be taken in different series in the same class. Furthermore, customer orders received by an exchange after the opening of the series involved cannot be executed until after free trading commences. As a result, an order in a series that opened near the beginning of a lengthy rotation may not be executed until the opening rotation has concluded and free trading has begun. This may not occur until long after the order was entered.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 [8] and the rules and regulations thereunder. The Commission believes that the procedures proposed by the PSE will remove impediments to and perfect the mechanism of a free and open options market by decreasing the time required to obtain opening market quotations and allowing free trading to commence as quickly as possible after the opening of the Exchange. Expedited free trading will allow market makers to engage in hedging strategies as soon as possible after the opening of the Exchange, and also will result in prompt execution of customer orders. In this regard, the PSE's proposal is consistent with a recommedation contained in *The October 1987 Market Break Report* by the Commission staff, that the options exchanges should reexamine their rules governing opening rotations.[9] Moreover, the PSE has designed procedures to ensure that pre-opening quote indications are not stale by the opening of trading in the underlying security, and would not result in executions that are

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] The following criteria will be applied by the Committee to all equity options traded upon the Exchange's option floor in reaching a determination that the option's underlying stock shows little market volatility: (1) The average difference between the closing price and the opening price of the underlying security measured daily over a two-month period must be ¼ point or less; and (2) the average daily volume of options contracts traded on the opening in the class over the same two-month period may not exceed 100 contracts. Once an option class has been designated as eligible for pre-opening procedures, it will remain eligible until the Committee makes a determination that it is no longer eligible. Letter from T. Glen Stanton, Staff Attorney, PSE, to Joseph Furey, Branch Chief, Commission, dated June 20, 1988.

[4] Telephone conversation between T. Glen Stanton, Staff Attorney, PSE, and Mary Revell, Attorney, Commission, August 31, 1988.

[5] The Exchange intends that the term "substantially" shall mean a change of more than ¼ of a point in the opening price of the underlying security. Letter from T. Glen Stanton, Staff Attorney, PSE, to Joseph Furey, Branch Chief, Commission, dated August 24, 1988.

[6] Telephone conversation between T. Glen Stanton, Staff Attorney, PSE, and Mary Revell, Attorney, Commission, July 12, 1988.

[7] Telephone conversation between T. Glen Stanton, Staff Attorney, PSE, and Mary Revell, Attorney, Commission, July 12, 1988.

[8] 15 U.S.C. 78f (1982).

[9] *The October 1987 Market Break* at 8-22.

inconsistent with the security's opening price.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Dated: September 9, 1988.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 88-21031 Filed 9-14-88; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-16560; 812-7021]

American Tax Credit Properties L.P.; Notice of Application

September 9, 1988.

AGENCY: Securities and Exchange Commission, SEC.

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: American Tax Credit Properties L.P.

Relevant 1940 Act Sections: Exemption under section 6(c) from all provisions of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order exempting the Partnership from all provisions of the Act and rules thereunder to permit the Partnership to invest in other limited partnerships that in turn will engage in the ownership, and possibly development or rehabilitation of low and moderate income housing projects, which ownership is expected to generate certain credits allowable under the Internal Revenue Code of 1986 ("Code") for investments in low and moderate income housing projects.

FILING DATE: The application was filed on April 22, 1988 and amended on September 9, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the Application will be granted. Any interested person may request a hearing on this application, or ask to be identified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 570 Taxter Road, Suite 420, Elmsford, New York 10523.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Law Clerk (202) 272-3022 or Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. The partnership was formed under the Delaware Revised Uniform Limited Partnership Act on February 12, 1988, as a vehicle for equity investment in other limited partnerships which will engage in the ownership, and possibly development or rehabilitation of low and moderate income housing (the "Properties") assisted by governmental loan and subsidy assistance programs. The ownership of such Properties is expected to generate certain tax credits allowable under the Internal Revenue Code ("Low Income Credits"). The Partnership will operate as a "two-tier" entity, *i.e.*, the Partnership, as a limited partner, will invest in other limited partnerships ("Local Partnerships"). The Partnership will normally acquire a 90-99% interest in the profits, losses and tax credits of the Local Partnership, with the balance remaining with the local General Partner. The Partnership's principal investment objectives are to invest in other limited partnerships which own and operate real estate in a manner which will: (i) Provide Limited Partners (as defined) with low income credits (and, to a lesser extent, rehabilitation credits) that they may use to offset their federal income tax liability; (ii) allocate passive losses to individual Limited Partners to offset passive income that they may realize from rental real estate investments and other passive activities, and allocate passive losses to corporate Limited Partners to offset active business income; and (iii) preserve and protect the Partnership capital. In addition, the Partnership will seek, to the extent feasible, to provide to the Limited Partners distributions of cash, if any, from the operations of the Properties and distributions of sale or refinancing proceeds, if any, upon the disposition or refinancing of the Properties. In no case will investments be made in Properties that are not eligible for Low Income Credits (as defined).

2. On March 1, 1988, the Partnership filed a Registration Statement, as amended and supplemented to date, on Form S-11 (File No. 33-20391) (the "Registration Statement") with the SEC under the Securities Act of 1933, as amended (the "Securities Act"), which was declared effective on May 4, 1988, pursuant to which the Partnership is offering publicly 35,000 units of limited partnership interest at $1,000 per unit (the "Unit"). To date, the Partnership has sold 23,603 Units for $23,603,000 (less sales commissions) and it has been determined that the offering will terminate no later than December 31, 1988. The Partnership has registered with the SEC a total of 50,000 units because Merrill Lynch, Pierce, Fenner & Smith Incorporated (the "Selling Agent"), the Partnership and Richman Tax Credit Properties L.P., the Partnership's general partner ("General Partner") have the right, exercisable by mutual agreement, to sell (on the same terms and conditions as the other Units) up to an additional 15,000 Units on behalf of the Partnership. Purchasers of Units will become limited partners ("Limited Partners") of the Partnership.

3. Offers to sell and sales to the public of the Units are proposed to be effected through the Selling Agent. The Selling Agent will use its "best efforts" to obtain subscriptions for Units. However, any subscriptions for Units must be approved by the General Partner, which approval shall be conditioned upon representations as to suitability of the investment for each subscriber. Each subscriber will represent, among other things, that he meets the general investor suitability standards established by the Partnership and the General Partner. Such general investor suitability standards provide, among other things, that investment in the Partnership is suitable only for an investor (a "Qualified Investor") who meets the following requirements:

(a) In the case of an investor that is a corporation, a corporation subject to Subchapter S of the Code, as amended to date, and C Corporations that are personal service corporations that reasonably expect to have substantial unsheltered passive activity income, or

(b) In the case of noncorporate investors, such investor reasonably expects to have an annual adjusted gross income, and married investors expect to have a combined annual

[10] 15 U.S.C. 78s(b)(2 (1982).

[11] 17 CFR 200.30-3(a)(12) (1988).

adjusted gross income, of $200,000 or less in each year in which they will be allocated low income credits or who have substantial unsheltered passive activity income.

In addition, a subscriber must represent that he—

(i) Has a net worth (exclusive of home, home furnishings and personal automobiles) of at least $30,000 and an annual gross income of not less than $30,000,

(ii) Has a net worth (exclusive of home, home furnishings and personal automobiles) of at least $75,000, or

(iii) Is purchasing in a fiduciary capacity for a person or entity having the net worth and annual gross income as set forth in clause (i) or such net worth as set forth in clause (ii).

Units will be sold in certain states only to persons who meet additional or alternative standards which will be set forth in the Prospectus, any supplement to the Prospectus, the Subscription Agreement or the suitability standards set forth in Exhibit C to the Prospectus; *Provided, however,* That in no event shall the Partnership employ any such suitability standard which is less restrictive than that set forth herein. Further, it is required that, prior to admission to the Partnership as a Limited Partner, each proposed transferee must deliver to the General Partner evidence of the suitability of his investment. The Partnership's Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement") imposes substantial restrictions on transferability of the Units. The Partnership believes that the suitability standards set forth above are consistent with the requirements in Investment Company Act Release No. 8456 (August 9, 1974) ("Release 8456") and are consistent with the guidelines of those states which prescribe suitability standards.

4. All proceeds of the public offering of Units initially will be placed in an escrow account with Security Pacific National Trust Company (New York). On August 19, 1988, funds held in escrow were released and will be invested or held in trust pending investment. Any net proceeds of the offering which the Partnership has not invested in Local Partnerships or applied to reserves will be returned by the Partnership to the Limited Partners pro rata as a return of capital.

During the operation of the Partnership, the Partnership will invest any net proceeds not immediately utilized to acquire Local Partnership interests or for other Partnership purposes (such as the possible establishment of an initial reserve equal to 4.5% to 5.5% of the gross proceeds) in permitted interim investments including, without limitation, (i) municipal obligations rated "A" or better by a recognized rating agency; (ii) direct obligations of, or obligations unconditionally guaranteed by, the United States or any agency thereof; (iii) commercial paper rated in the two highest categories by Moody's Investors Service, Inc. and by Standard & Poor's Corporation; (iv) certificates of deposit or Eurodollar certificates of deposit issued by certain commercial banks; (v) debt securities issued by corporations rated "A" or better by a recognized rating agency, provided that a dealer which is a member of the New York Stock Exchange maintains a regular market in such securities; (vi) collateralized repurchase agreements with domestic banks having a duration no longer than 60 days; and (vii) shares of any open-end investment company, as defined in the Act, which has assets of not less than $200 million and invests primarily in securities of the type enumerated above. After the Partnership has made an initial capital contribution to a Local Partnership, other funds allocated for subsequent investment in that Local Partnership will be invested temporarily by the Partnership in investments referred to above. The determination of whether to distribute earnings from investments of such funds or to utilize such earnings for other Partnership purposes, including investment in other Local Partnerships, will be made by the General Partner.

5. The Partnership will be controlled by the General Partner, while the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of business of the Partnership. Limited Partners owning a majority of Partnership interests, however, will have the right to amend the Partnership Agreement (subject to certain limitations), remove the General Partner and elect a replacement therefor, and to dissolve the Partnership. In addition, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

6. The Selling Agent will receive commissions of up to $80 per Unit. In addition, the Selling Agent will be reimbursed by the Partnership or the General Partner up to the limits specified in the Prospectus for out-of-pocket expenses incurred by it in connection with the offering. Selling commissions based on 8% of the gross proceeds customarily are charged in securities offerings of this type and are consistent with the guidelines of the National Association of Securities Dealers, Inc.

7. The General Partner and its affiliates will receive substantial fees and compensation from the Partnership. Further, the local general partners will receive substantial fees and compensation from each Local Partnership. In addition to fees and interests, the General Partner and its affiliates will be allocated generally 1% of profits and losses of the Partnership for tax purposes.

8. All compensation to be paid to the General Partner and its affiliates is specified in the Partnership Agreement and Prospectus, and no compensation will be payable to the General Partner, or any of its affiliates, not so specified. The substantial fees and other forms of compensation that will be paid to the General Partner and its affiliates will not have been arrived at through arm's length negotiations. All such compensation, however, is believed to be fair and on terms no less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Further, the Partnership believes that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states which prescribe such guidelines, including without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc. applicable to real estate programs in the form of limited partnerships.

9. The Partnership has received an opinion of counsel that it is not required to register as an investment company under the Act.

Applicant's Legal Conclusion:

1. Without conceding that the Partnership is an investment company as defined in the Act, the Applicant asserts that the exemption of the Partnership from all provisions of the Act pursuant to section 6(c) of the Act is both necessary and appropriate in the public interest, because: (a) Investment in low and moderate income housing in accordance with the national policy expressed in Title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; (b) the limited partnership structure provides the only means of bringing private equity capital into such housing, particularly because public investors typically consider investment in low and moderate income housing programs as involving greater

risk than real estate investment generally; (c) the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount he has invested in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the credits, income and losses from the investment; (d) the limited partnership form of organization creates manifest problems in connection with fundamental provisions of the Act, such as the requirement of annual approval by investors of a management contract and the requirements concerning election of directors and the termination of the management contract; and (e) real estate limited partnerships such as the Partnership generally cannot comply with the asset coverage limitations imposed by section 18 of the Act. Thus, an exemption from these basic provisions is necessary and appropriate so as not to discourage use of the two-tier limited partnership entity, and thus frustrate the public policy established by the housing laws.

2. The Partnership does not intend to trade in temporary investments, or investments of reserves or committed funds, and there will be no investment speculation by the Partnership; the Partnership will own and hold these short-term securities on a temporary basis pending their complete investment in Local Partnerships in accordance with the stated purposes of the Partnership. Further, it is the Partnership's intention to apply capital raised in its public offering to the acquisition of Local Partnership interests as soon as possible.

3. The contemplated arrangement of the Partnership is not susceptible to abuses of the sort the Act was designed to remedy. The suitability standards described above, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on each Local Partnership by various Federal, State and local agencies, provide protection to investors in Units comparable to, and in some respects greater than, that provided by the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-21032 Filed 9-14-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. SIPA-149; File No. SIPC 88-1]

Securities Investor Protection Corporation; Order Approving Proposed Bylaw Change Relating to SIPC Fund Assessments on SIPC Members

On June 22, 1988, the Securities Investor Pretection Corporation ("SIPC") filed with the Securities and Exchange Commission, pursuant to section 3(e)(1) of the Securities Investor Protection Act of 1970 ("SIPA"), 15 U.S.C. 78ccc(e)(1), a proposed bylaw change.

I. Description of Proposed Bylaw Change

The proposed bylaw change would amend section 1(a) of Article 6 of SIPC's bylaws regarding SIPC Fund assessments on SIPC's members.[1] The bylaw change provides that, beginning on January 1, 1989, each SIPC member will be required to pay assessments at the rate of 3/16 of 1 percent of its gross revenues from the securities business, with a minimum assessment of $150 per annum. Currently, each SIPC member's assessment is $100 per annum. The SIPC bylaw change also provides that if SIPC determines that the SIPC Fund [2] totals or is reasonably likely to total less than $250 million, the amount of each member's assessment shall be ¼ of 1 percent of such member's gross revenues from the securities business (rather than ⅛ of 1 percent as is currently provided).[3] SIPC indicates that the SIPC Board of Directors ("SIPC Board") took these actions after consultation with representatives of various self-regulatory and securities industry organizations and the Commission.

SIPC indicates that the SIPC Fund currently totals approximately $388 million, and that SIPC maintains a $500 million confirmed line of credit with a consortium of banks. SIPC indicates that while these amounts, coupled with its statutory right to borrow up to $1 billion from the U.S. Treasury Department through the Commission, appear, in light of SIPC's historical experience, to be sufficient to enable SIPC to carry out its anticipated responsibilities, the SIPC Board believes that it is appropriate to increase gradually SIPC's resources.

SIPC indicates that the SIPC Board chose a commencement date of January 1, 1989, so as to give SIPC members ample time to plan for this expense and to give the collection agents (the self-regulatory organizations) time to prepare for these changes. SIPC further states that the SIPC Board selected 3/16 of 1 percent as a rate that would not prove too onerous for the securities industry, but would, over a reasonable period of time, add substantially to the SIPC Fund. SIPC states that the SIPC Board increased the minimum assessment from $100 per annum to $150 because it believes that all registered broker-dealers benefit from the SIPC program and should pay a reasonable amount to support that program. SIPC notes that SIPA does not permit a greater minimum assessment than $150 per annum.

Finally, in the past, SIPC assessments based on gross revenues were collected on a quarterly basis. In order to simplify the collection process, SIPC expects to collect assessments on a semi-annual basis for the first year. SIPC states that the frequency of collection will be reviewed next June.

II. Request for Public Comment

Section 3(e)(1) of SIPA provides that SIPC must file with the Commission a copy of proposed bylaw changes. That section further provides that bylaw changes shall take effect 30 days after filing, unless the Commission either (i) disapproves the change as contrary to the public interest or the purposes of SIPA, or (ii) finds that the change involves a matter of such significant public interest that public comment should be obtained, in which case, the Commission may after notifying SIPC in writing of such finding, require that the proposed bylaw change be considered by the same procedures as a SIPC proposed rule change.

The SIPC Fund, which is built from assessments on its members and interest earned on the Fund, is used for the protection of customers of members liquidated under SIPA to maintain investor confidence in the securities markets. In light of this fact and the significant market developments since October 1987, the Commission found that the proposed bylaw change involves a matter of significant public interest, that public comment should be obtained, and that the procedures applicable to proposed SIPC rule

[1] All broker-dealers registered under section 15(b) of the Securities Exchange Act of 1934, with some minor exceptions, are SIPC members.

[2] The SIPC Fund consists of cash and amounts invested in U.S. government or agency securities.

[3] Section 1(a) of Article 6 currently provides that if SIPC determines that the SIPC Fund totals or is reasonably likely to total less than (i) $250 million, the amount of each member's assessment shall be ⅛ of 1 percent of such member's gross revenues from the securities business, (ii) $150 million, the amount of each member's assessment shall be ¼ of 1 percent of such member's gross revenues from the securities business and (iii) $100 million, the amount of each member's assessment shall be ½ of 1 percent of such member's gross revenues from the securities business.

changes in section 3(e)(2) of SIPA should be followed. As required by section 3(e)(1) of SIPA, the Commission notified SIPC in writing of its finding.

Notice of the Commission's action including its request for public comment on the proposed bylaw change and notice of the proposed bylaw change together with the terms of substance of the proposed bylaw change were given by the issuance of a Commission release (Securities Investor Protection Act Release No. 147, July 14, 1988) and by publication in the **Federal Register** (53 FR 27590, July 21, 1988). The comment period expired on August 11, 1988 and no comments were received on the proposal.[4]

III. Approval of Proposed Bylaw Change

The Commission believes that SIPC's proposed actions provide substantial protections for customers of broker-dealers liquidated under SIPA. The Commission believes that revenue based assessments will, over time, increase the size of the SIPC Fund and promote investor confidence. In this connection, the Commission believes that a gradual increase in the size of the SIPC fund is prudent particularly in light of the large short-term allocation of funds which would likely be necessary in the unlikely event of a liquidation of a large broker-dealer. The $150 minimum assessment will represent an increase of $50 over the current minimum assessment and will apply to all SIPC members, including firms that do not carry customer accounts or hold customer funds and securities. The Commission believes, however, that all SIPC firms benefit from participation in the securities markets and should contribute to a fund which maintains investor confidence in the securities markets thus redounding to their benefit.

Accordingly, the Commission finds that the proposed SIPC bylaw change is in the public interest and is consistent with the purposes of the SIPA.

It is therefore ordered by the Commission, pursuant to section 3(e)(2) of the SIPA, that the above-mentioned proposed bylaw change be, and hereby is, approved.

By the Commission.

Jonathan G. Katz,

Secretary.

Dated: September 9, 1988.

[FR Doc. 88-21029 Filed 9-14-88; 8:45 am]

BILLING CODE 8010-01-M

[4] By letter dated August 29, 1988, SIPC consented to an extension of time until September 9, 1988 for Commission action on the proposed bylaw change.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Prince William County, VA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Prince William County, Virginia.

FOR FURTHER INFORMATION CONTACT: George E. Kirk, Jr., District Engineer, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240-0045, Telephone (804) 771-2380.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Virginia Department of Transportation (VDOT), will prepare an environmental impact statement (EIS) on a proposal to construct a dual-lane facility along existing Route 234 from Route 1 at Dumfries to Route 649 at Limstrong in the County of Prince William, Virginia.

The project will involve construction along the existing facility for the entire length of the project. The environmental study limits of the project are along the existing Route 234 corridor from Route 1 to Route 649, for a total length of about 13 miles.

The proposed project will upgrade Route 234 to a four-lane, divided facility. In conjunction with the proposed Route 234 Manassas Bypass, the subject project will provide a continuous four-lane divided facility between Route I-95 to the south and Route I-66 to the north. The project will enhance the level of service, capacity and safety of the facility.

Alternatives under consideration include: (1) Taking no action; and (2) widening to a four-lane divided facility within the existing Route 234 corridor, which will include widening to the east and west, segments on new location, and combinations thereof.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies. No formal scoping meeting is planned at this time. The Draft EIS will be available for public and agency review and comment.

Following the publication of the Draft EIS, a combined location and design public hearing will be held. Public notice will be given of the time and place of the hearings. A public information meeting will also be held during the early planning stages to informally present the proposed alternatives to the general public.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive order 13372 regarding State and local review of Federal and Federally assisted programs and projects apply to this project.

Issued on: September 9, 1988.

George E. Kirk, Jr.,

District Engineer, Richmond, Virginia.

[FR Doc. 88-20983 Filed 9-14-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 12, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0101
Form Number: None
Type of Review: Extension
Title: Records of Serially Numbered Substantial Holders or Containers
Description: The owner of duty-free containers or holders is required to keep adequate records open to inspection by Customs officers to document that they are being used in international traffic and therefore still entitled to duty-free status. Owners are usually companies involved in foreign trade.
Respondents: Businesses or other for-profit

Estimated Number of Recordkeepers: 20
Estimated Burden Hours Per Recordkeeper: 50 Hours
Frequency of Response: Recordkeeping
Estimated Total Reporting Burden: 1,000 hours

OMB Number: 1515–0108
Form Number: None
Type of Review: Extension
Title: Declaration by Person Abroad Who Received and Is Returning Merchandise to the U.S.
Description: The declaration is used under conditions when articles are imported and exported and reimported, and are brought in duty free into the U.S. to insure Customs control over duty-free merchandise.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Number of Respondents: 500
Estimated Burden Hours Per Response: 12 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 292 hours
Clearance Officer: B.J. Simpson (202) 566–7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue NW. Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 88–21078 Filed 9–14–88; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 179
Thursday, September 15, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

[Federal Register No. 88-20359]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 15, 1988, 10:00 a.m.

The Federal Election Commission Open Meeting for Thursday, September 15, 1988, at 10:00 a.m. has been cancelled.

* * * * *

DATE AND TIME: Tuesday, September 20, 1988, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Tuesday, September 22, 1988, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft AO 1988-33:
Jan W. Baran on behalf of the Republican Party of Florida and its Federal political committee.
Draft AO 1988-34:
Jerry W. Kennedy on behalf of The National Business Aircraft Association.
Draft AO 1988-35:
Anthony F. Marra on behalf of the Federal National Mortgage Association.
Draft AO 1988-36:
John F. Markes on behalf of the Detroit Edison Political Action Committee and Detroit Edison Employees' Savings Plans.
Allocation of Expenses Between Federal and Non-Federal Accounts: Draft Notice of Proposed Rulemaking.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 88-21152 Filed 9-14-88; 8:45 am]

BILLING CODE 6715-01-M

Corrections

Federal Register
Vol. 53, No. 179
Thursday, September 15, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Instrument

Correction

In notice document 88-20170 appearing on page 34345 in the issue of Tuesday, September 6, 1988, make the following correction:

In the second column, in the first paragraph, in the fifth line, "80 CFR 301)." should read "80 Stat. 897; 15 CFR Part 301).".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL-3380-2]

Drinking Water Regulations; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper

Correction

In proposed rule document 88-18577 beginning on page 31516 in the issue of Thursday, August 18, 1988, make the following corrections:

1. In the preamble wherever "μg" appears it should read "ug".

2. On page 31523, in the third column, in the second complete paragraph, in the fifth line, "real" should read "renal".

3. On page 31527, in the first column, in the first complete paragraph, in the 10th line, "0.82" should read "0.082".

4. On page 31531, Table 7 should read as follows:

TABLE 7.—WASTE BY-PRODUCT DISPOSAL COSTS FOR PUBLIC WATER SYSTEMS—ALTERNATIVES WITH LOWEST COST [1]

[cents/1,000 gallons drinking water produced; 1986 dollars]

Contaminant/Technology	Population	25–100	101–500	501–1000	1001–3300	3301–10K	1,000,000
	Flow (MGD)	0.013	0.004	0.1333	0.40	1.30	650
Sludges:							
Lime softening							
Dewatering and land disposal [2]		550	240	120	80	60	40
Land application		1200	380	150	80	50	60
Coagulation/filtration							
Sanitary sewer discharge							
—Copper		190	62	28	15	5	1
—Lead		160	48	22	10	4	0
Dewatering and land disposal [2]		300	120	55	30	20	7
Brines:							
Ion exchange							
Discharge to POTW [3]		100	71	45	25	12	2
Reverse osmosis							
Direct discharge		85	42	20	11	5	0
Discharge to POTW		220	150	90	47	27	10

[1] Draft, "Technologies and Cost for the Treatment and Disposal of Waste By-products from Water Treatments for the Removal of Inorganic and Radioactive Contaminants." ODW. Sept. 23, 1986. Revised Draft.
[2] Dewatering by nonmechanical methods, e.g., lagoons and drying beds.
[3] Publicly owned treatment works.

5. On page 31539, in the first column, in the first complete paragraph, in the 11th line, "pH 8" should read "pH>§® 8".

6. On page 31551, in the third column, in Table 14, in the first entry, in the second column, "(0)0005" should read "(0).0005".

7. On page 31552, in the first column, in the first complete paragraph under 5, in the seventh line "40°C" should read "4°C".

8. On page 31554, in the third column, in the first complete paragraph, in the 23rd line, after "actual" insert "likely exposures so that even though actual".

9. On page 31562, in the third column, in the fourth line, after "required to" insert "be reported to the State. Systems would be required to" and in the ninth line, "voluntarily" was misspelled.

10. On page 31568, in the second column, in the second entry from the bottom, "Lauwerys, M.C." should read "Lauwers, M.C.".

§ 141.2 [Corrected]

11. On page 31570, in the second column, in § 141.2, in the definition for "Residence", in the first line, "purpose" should read "purposes".

§ 141.32 [Corrected]

12. On the same page, in the same column, in § 141.32(e)(13), in the 10th line, "contaminated" should read "contaminates" and in the 27th line, "indicated" should read "indicate".

§ 141.81 [Corrected]

13. On page 31571, in the first column, in § 141.81, in the table, in the second column, remove the period after "Zero".

§ 141.84 [Corrected]

14. On page 31572, in the third column, in § 141.84(b)(1)(ii), in the third line the section reference should read "§ 141.83(b)(1)(ii)".

§ 142.14 [Corrected]

15. On page 31577, in the second column, in § 142.14(a)(1)(iii), in the fourth line, after "§ 141.73," insert "and".

16. On the same page, in the same column, in § 142.14(d)(4), that line should read "(4)—(6) [Reserved]".

§ 142.17 [Corrected]

17. On the same page, in the third column, in § 142.17(c)(2), in the sixth line, "residence" should read "residences".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Revegetation

Correction

In rule document 88-20105 beginning on page 34635 in the issue of Wednesday, September 7, 1988, make the following correction:

On page 34635, the cover page, the date should read "September 7,1988".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-040-08-4212-13; A22635]

Realty Action; Exchange of Public and Private Lands in Pima, Graham and Mohave Counties, AZ

Correction

In notice document 88-19175 beginning on page 32283 in the issue of Wednesday, August 24, 1988, make the following correction:

On page 32283, in the third column, under "T. 10 S., R. 28 E.", the first line should read

"Sec. 7, SE¼SW¼,SW¼SE¼;".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-409]

Crane or Derrick Suspended Personnel Platforms

Correction

In rule document 88-17199 beginning on page 29116 in the issue of Tuesday, August 2, 1988, make the following corrections:

1. On page 29118, in the first column, in the first complete paragraph, in the sixth line, "have" should read "half".

2. On page 29119, in the third column, in the first complete paragraph, in the 20th line, "harrowly liniting" should read "narrowly limiting".

3. On page 29121, in the third column, in the eighth line from the top, "derating" was misspelled.

4. On page 29123, in the first column, in the 27th line from the top, "kits" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8220]

Transition Rules for Certain Qualified Business Units Using a Profit and Loss Method of Accounting for Tax Years Beginning Before January 1, 1987

Correction

In rule document 88-19190 appearing on page 32384 in the issue of Thursday, August 25, 1988, make the following corrections:

1. On page 32385, in the first column, under **Explanation of Provisions**, in the second paragraph, in the eighth line, "transacting" should read "translating".

PART 1—[CORRECTED]

2. On the same page, in the third column, in amendatory instruction **Par. 2.**, in the first line "§ § 1987-OT" should read "§ § 1.987-OT".

§ 1.987-1T [Corrected]

3. On page 32386, in the first column, in § 1.987-1T, in paragraph (a)(2), in the sixth line, "paragraph (b)(2)(1)" should read "paragraph (b)(2)(i)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[LR-39-87]

Electronic Filing of Notice of Federal Tax Lien

Correction

In proposed rule document 88-3796 beginning on page 5279 in the issue of Tuesday, February 23, 1988, make the following correction:

On page 5279, in the second column, under **DATES**, the last line should read "February 23, 1988.".

BILLING CODE 1505-01-D

federal register

Thursday
September 15, 1988

Part II

Environmental Protection Agency

40 CFR Part 81

Assessment of Visibility Impairments and Integral Vista Identification; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AD-FRL-3432-3]

Assessment of Visibility Impairments and Integral Vista Identification

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposal addresses the necessity of revising the State implementation plans (SIP's) for the States of Arizona, Maine, Minnesota, and Utah to include emission limitations representing best available retrofit technology (BART) or other control strategies to remedy source-attributable impairments that may exist within the States' Class I areas. Today's action is in accordance with a settlement agreement with the Environmental Defense Fund (EDF) and others which requires EPA to propose appropriate measures to remedy certified visibility impairments in mandatory Class I Federal areas where the impairment in the area is reasonably attributed to specific sources. Under the agreement, EPA had previously deferred a decision on the need to impose BART requirements for sources within these States (52 FR 45132 (November 24, 1987)). The EPA is also proposing to amend its listing to correct the identification of a key feature of an integral vista for the Roosevelt Campobello International Park (RCIP). The EPA had earlier amended its listing to include in Part 81 the list of integral vistas appearing at 46 FR 22707 (April 20, 1981) which had been identified by the RCIP Commission for the RCIP (52 FR 45132). The identification of the integral vistas, relied on by EPA to amend its regulations, inadvertently omitted the key feature proposed to be included by this rulemaking. In addition, EPA proposes to clarify the scope of the integral vistas for the RCIP as requested by the RCIP Commission.

DATE: Comments on this notice of proposal must be submitted to the Central Docket Section no later than November 14, 1988.

ADDRESSES: Comments should be submitted (in duplicate if possible) to Central Docket Section (LE-131A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Attention: Docket Number A-88-22.

Docket: Pursuant to section 307(d)(1)(B) of the Clean Air Act (Act), 42 U.S.C. 7607(d)(1)(B), this rulemaking is subject to the procedural requirements of section 307(d). Therefore, EPA has established a docket for this notice, Docket Number A-88-22. Materials related to the development of this notice have been placed in this docket. For background information, materials related to the development of the visibility protection program (40 CFR 51.300 *et seq.*) are available in Docket A-79-40. Also, materials related to the development of the visibility new source review and visibility monitoring strategies are available in Docket A-84-32. Finally, materials related to the visibility long-term strategy, implementation of control strategy, and integral vista program are available in Docket A-85-26. All dockets are available for public inspection and copying between 8:00 a.m. and 4:00 p.m. Monday through Friday at EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street SW., Washington, DC. A reasonable fee may be charged for copying.

Public Hearing: Any request for a public hearing should be submitted in writing to: David Stonefield, Chief Particulate Matter Programs Section, Air Quality Management Division (MD-15), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: David Stonefield at telephone number (919) 541-5350 or FTS 629-5350.

SUPPLEMENTARY INFORMATION:

Background

A. Regulatory Requirements

Section 169A of the Act, 42 U.S.C. 7491, sets as a national goal "the prevention of any future, and the remedying of any existing impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." Mandatory Class I Federal areas are certain national parks, wilderness, and international parks as described in section 162(a) of the Act, 42 U.S.C. 7472(a). Section 169A requires that EPA promulgate regulations to assure reasonable progress toward meeting the national goal for mandatory Class I Federal areas where EPA has determined that visibility is an important value. On November 30, 1979, EPA identified 156 areas where visibility is an important air quality related value (44 FR 69122). Section 169A specifically requires EPA to promulgate regulations requiring certain States to amend their SIP's to provide reasonable progress toward meeting the national goal for the 156 areas.

On December 2, 1980, EPA promulgated the required visibility regulations (45 FR 80084, codified at 40 CFR 51.300 *et seq.*). In broad outline, the visibility regulations require the 36 States listed in § 51.300(b) to: (1) Coordinate SIP development with the appropriate Federal land managers (FLM's), (2) develop a program to assess and remedy visibility impairment from new and existing sources, (3) develop a long-term (10 to 15 years) strategy to assure reasonable progress toward the national goal, (4) develop a visibility monitoring strategy to collect information on visibility conditions, and (5) consider in all aspects of visibility protection any "integral vistas" (important views of landmarks or panoramas that extend outside of the boundaries of the Class I area) identified by the FLM's as critical to the visitor's enjoyment of the Class I areas.

In December 1982, environmental groups, including EDF, filed a citizen's suit in the United States District Court for the Northern District of California alleging that EPA had failed to perform a nondiscretionary duty under section 110(c) of the Act to promulgate visibility SIP's for the 35 States [1] that had failed to submit SIP's to EPA as called for by the 1980 visibility regulations (*EDF v. Thomas*, No. C826850 RPA).

The EPA and the plaintiffs negotiated a settlement agreement for the remaining States which the court approved by order on April 20, 1984. For more information on details of the provisions of the settlement, including a schedule of actions by EPA, see EPA's announcement of the agreement at 49 FR 20647 (May 16, 1984).

B. Settlement Agreement

The settlement agreement required EPA to promulgate Federal visibility SIP's, henceforth called Federal implementation plans (FIP's), on a specified schedule for those States that had not submitted visibility SIP revisions to EPA. Specifically, the first part of the agreement required EPA to propose and promulgate FIP's which cover the monitoring and new source review (NSR) provisions of 40 CFR 51.305 and 51.307. The EPA proposed such plan revisions for 34 States on October 23, 1984 (49 FR 42670). The EPA promulgated its monitoring strategy for 23 States and its NSR provisions for 21 States (50 FR 28544, 51 FR 5504, and 51 FR 22937). In separate notices, EPA approved the SIP's of the other States with respect to monitoring and NSR.

[1] The State of Alaska had submitted a SIP which was approved on July 5, 1983 at 48 FR 30623.

The second part of the settlement agreement required EPA to determine the adequacy of the SIP's to meet the remaining provisions of the visibility regulations. These provisions are the general plan provisions, including implementation control strategies (§ 51.302), integral vista protection (§§ 51.302–51.307), and long-term strategies (§ 51.306). The settlement agreement required EPA to propose and promulgate FIP's to remedy any deficiencies on a specified schedule.

On January 23, 1986, EPA preliminarily determined that the SIP's of 32 States were deficient with respect to the remaining visibility provisions (51 FR 3046). Thereafter, EPA and the plaintiffs negotiated revisions to the settlement agreement which extended the deadlines for proposing FIP's to remedy these deficiencies. The court approved these revisions by its order of September 9, 1986.[2]

In accordance with the revised settlement agreement, the EPA promulgated its general plan requirements and long-term strategies for 29 States on November 24, 1987 (52 FR 45132). Under the revised agreement, EPA's decision regarding certified visibility impairments in seven Class I areas in the States of Arizona, Maine, Minnesota, and Utah was deferred until August 31, 1988 pending acquisition and evaluation of additional monitoring information regarding potential sources of impairment. The EPA required additional information to determine whether the impairment in any of these Class I areas is "reasonably attributable" to an existing stationary facility, and to enable a BART analysis for any source so identified as causing or contributing to visibility impairment (40 CFR 51.302(c)(4)(i)).

For the reasons given below, EPA and the plaintiffs in *EDF v. Thomas* have negotiated further revisions to the settlement agreement which allow EPA until August 31, 1989 to address visibility impairments existing in the Grand Canyon National Park in Arizona, the Canyonlands National Park in Utah, and the Moosehorn Wilderness in Maine.[3]

The Fish and Wildlife Service (FWS) has identified the Georgia-Pacific Corporation's (GP) pulp and paper mill in Woodland, Maine, as the probable source of impairments existing in Moosehorn Wilderness. GP has proposed a major modification (replacement of two boilers with a new boiler and additional controls on another boiler) to its mill and, thus, is required to undergo preconstruction review and obtain a prevention of significant deterioration (PSD) permit pursuant to sections 160–169 of the Act, 42 U.S.C. 7470–7479, and the PSD provisions of Maine's SIP (45 FR 6786 (January 30, 1980)). In order to obtain its PDS permit, GP must, among other things, conduct an analysis to determine whether the modification will cause or contribute to an adverse impact on the air quality related values, including visibility, of the Class I area (section 165(d)(2)(C)(ii)) of the Act and satisfy the new source review protection requirements pursuant to section 169A of the Act (40 CFR 51.300 *et seq.* and 52.1032). In accordance with the PSD visibility requirements, GP and the FLM are analyzing the source(s) of the plume blight for purposes of the PSD application. The EPA anticipates that the end result of the PSD permitting process will include an enforceable agreement by GP to take ameliorative measures that will largely cure the plume blight problem in Moosehorn, and thus render a BART analysis unnecessary. However, the PSD process will not be completed for several months. Consequently, the parties agreed to further defer EPA's decision on the necessity for BART, pending completion of the PSD permit process.

The 1986 revisions to the settlement agreement had allowed EPA to defer a decision on the necessity for BART and other control measures for sources of impairment in Canyonlands and Grand Canyon National Parks in order to allow the National Park Service (NPS) to complete a study concerning source-attributable impacts within these Class I areas. That study has experienced delays. Although the sampling has been completed, the results of the study have not been analyzed, published, and subjected to peer review by other members of the scientific and engineering communities. Consequently, the parties agreed to further defer EPA's decision concerning BART and other control measures, pending analysis of the results of the monitoring study.

In addition to the present NPS study, monitoring activities will continue at these Class I areas to supplement current data. Regardless of the availability of such additional data, however, the EPA intends to propose a decision regarding implementation of control strategies in these three areas no later than August 31, 1989, as allowed by the newly revised settlement agreement.

C. Today's Action

In today's proposal, EPA addresses certified visibility impairments in four Class I areas. Based on the monitoring activities conducted in these areas, EPA has not found that the visibility impairment is reasonably attributable to any specific source. Thus, with respect to Voyageurs National Park, EPA considers it unnecessary at this time to revise the FIP for Minnesota to include BART requirements or other control strategies. In addition, with respect to Petrified Forest National Park and Saguaro Wilderness, EPA considers it is unnecessary at this time to revise the FIP for Arizona to include BART requirements or other control strategies. Similarly, with respect to the RCIP and associated integral vistas, EPA considers it unnecessary at this time to revise the FIP for Maine to include BART requirements or other control strategies. However, any future certification of impairment in these areas will be addressed in the periodic review of each State's long-term strategy (40 CFR 51.306 and 52.29).

Discussion of Impairment

A. Voyageurs National Park, Minnesota

The Department of the Interior (DOI) previously noted that uniform haze as well as elevated and ground-based layered haze resulted in visibility impairments in Voyageurs National Park (52 FR 7802 (March 12, 1987)). In order to identify the source of the impairment, the Steering Committee of the Interagency Monitoring of Protected Visual Environments (IMPROVE) directed its contractor, Air Resources Specialists Inc. (ARS), to conduct photographic monitoring of the Class I area to assess visual air quality impact by plumes from local sources. IMPROVE is an ongoing interagency monitoring effort formed to address the specific data needs of the section 169A visibility protection program. IMPROVE has the responsibility to collect visibility date in order to establish background levels necessary to assess impacts of potential new sources, determine sources and levels of reasonably attributable impairment, assess progress toward the national visibility goal, and promote the development of improved visibility monitoring techniques. To accomplish these objectives, a steering committee was formed with representatives from EPA, FWS, NPS, U.S. Forest Service, and Bureau of Land Management.

The ARS personnel conferred with NPS in selecting an appropriate monitoring site in Voyageurs National Park. On October 24, 1986, NPS installed

[2] A copy of the settlement agreement and revisions is available in Docket A-85-26 at the address given at the beginning of this notice.

[3] See *EDF v. Thomas*, Joint Motion to Extend Deadline (August 4, 1988); Order (August 26, 1988).

an 8mm time-lapse photographic system in the park to view north across Kabetogama Lake. Several sources are located approximately 30 km west-northwest of the vista. The NPS personnel also installed a 35mm camera to view east through the park, capturing an appropriate target for visual air quality analysis.

The ARS coordinated the photographic monitoring of the area from October 24, 1986 through April 1988. On May 5, 1988, ARS submitted the monitoring results in a report to the EPA chairman of the IMPROVE steering committee.[4] As noted in the May 5 report, the data gathered by ARS displayed no distinct, identifiable plumes entering the Class I area. Thus, ARS concluded that no visibility impairments in Voyageurs National Park could be presently traced to specific sources. The NPS reviewed the 35mm slides and 8mm time-lapse movies and, by letter dated July 25, 1988, concurred with ARS.

In addition, the Minnesota Pollution Control Agency (MPCA) conducted a modeling screening analysis for the Boise Cascade paper mill located approximately 18 km from the park boundary.[5] The MPCA used the Level I visibility screening procedures according to the methods recommended by EPA in the "Workbook for Estimating Visibility Impairment," EPA-450/4-80-031. Based on its modeling screening analysis, the MPCA concluded that Boise Cascade's emissions do not impair visibility beyond a distance of 3 km from the source. The EPA's staff reviewed the screening analysis and concluded that there is no potential for visibility impairment in Voyageurs National Park as a result of the actual or potential allowable emissions from the Boise Cascade paper mill.[6] Accordingly, EPA considers it unnecessary at this time to revise the FIP for Minnesota to include BART requirements and other control measures.

B. Petrified Forest National Park, Arizona

The NPS earlier noted the occurrence of a yellowish-brown layered haze in the Petrified Forest National Park which may be attributable to area powerplants (52 FR 7802). Accordingly, the IMPROVE committee directed ARS to conduct photographic monitoring of the Class I area to assess impacts on visual air quality by plumes from local sources. On March 13, 1987, NPS personnel installed an 8mm time-lapse and 35mm color-slide camera system at the Petrified Forest to view the length of the park looking southeast toward Blue Mesa. Between March 13, 1987 and July 31, 1987, the system recordings disclosed no visible plumes. On July 31, 1987, ARS relocated the system to record a southwest view looking toward the Cholla Generating Station. This coal-fired powerplant is located approximately 40 km outside park boundaries. The system operated until March 1, 1988. During this monitoring period, the system again recorded no visible plumes in the Class I area. While the record reveals occasional horizon discoloration, ARS has concluded that such discoloration is not readily identifiable or traceable to a specific source. As noted in the May 5, 1988 report submitted to the EPA by ARS, the photographic monitoring at the Petrified Forest did not display identifiable plumes in the Class I area. The NPS reviewed the 35mm slides and 8mm time-lapse movies, and by letter dated July 25, 1988, concurred with ARS that impairments in the park could not be traced to a specific source. Accordingly, with respect to the Petrified Forest National Park, EPA considers it unnecessary at this time to revise the FIP for Arizona to include BART requirements or other control measures.

C. Saguaro Wilderness, Arizona

An earlier NPS survey noted the existence during stagnant winter meteorological conditions of a uniform haze within the Class I area and related vistas (52 FR 7802). The EPA Regional Office staff reviewed the emissions inventory near Saguaro Wilderness which indicates that there are a number of power plants and smelter operations within 100 km of Saguaro. Moreover, there are several urban areas in the vicinity of Saguaro, including the city of Tucson which is situated between the east and west sections of the Class I area. At present, it appears that impairments in the Saguaro Wilderness area result from the combined emissions of several major, minor, and urban sources, and are not attributable to any specific source. Thus, EPA considers it unnecessary at this time to revise the FIP for Arizona to include BART requirements or other control measures.

The EPA notes, however, that NPS is deploying in the Saguaro Wilderness a camera system which will operate for approximately 1 year. If, upon review of the data to be gathered from the ongoing study, the EPA and NPS attributes visibility impairment to a specific source, then such impairments will be addressed in the 3-year periodic review of Arizona's long-term visibility strategy.

D. Canyonlands National Park, Utah, and Grand Canyon National Park, Arizona

The DOI previously noted the occurrence of visibility impairment episodes at Canyonlands and Grand Canyon National Parks during winter inversion conditions (52 FR 7802). However, due to the proximity of several major point sources and small urban sources near the Class I areas, EPA was unable to attribute the impairment to specific sources. At that time, the NPS was in the process of conducting a preliminary research effort in the Canyonlands National Park/Lake Powell Basin/Grand Canyon National Park areas. The NPS, the Salt River Project, the Electric Power Research Institute, and others conducted the Winter Haze Intensive Tracer Experiment (WHITEX) study over a 6-week period during the 1986-87 winter season to quantify the air pollution impact of the Navajo Power Plant on specific receptors, including Canyonlands and Grand Canyon National Parks. A tracer (a gas not normally found in the ambient air) was added to the emissions from the stack of the Navajo Power Plant located near Page, Arizona. Monitoring stations were located throughout the region, including Canyonlands and Grand Canyon National Parks to measure concentrations of this tracer. However, the data analyses have been delayed and the evaluation of the WHITEX study is incomplete. Therefore, to allow completion of the data analysis, the parties in *EDF v. Thomas* have agreed to again defer EPA's decision on the need to include BART requirements or other control strategies in the FIP for Utah and Arizona to address existing impairment in Canyonlands and Grand Canyon National Parks. Accordingly, EPA intends to propose a decision and any appropriate rulemaking no later than August 31, 1989.

E. Moosehorn Wilderness Area, Maine

The FWS previously noted the existence of elevated layered hazes of differing colors in the Moosehorn Wilderness area (52 FR 7802). However, the existing data was inadequate to positively identify the sources of the

[4] See report from ARS to EPA (May 5, 1988) (discussing monitoring for reasonably attributable impact of local sources at Voyageurs National Park, Petrified Forest National Park, and Moosehorn Wilderness area).

[5] See letter from Minnesota Pollution Control Agency to Janet Metsa of EPA (April 21, 1987) (discussing visibility impairment at Voyageurs).

[6] See memorandum from Jawad Touma of EPA to Pam Buschman of EPA (June 30, 1988) (discussing Minnesota screening analysis).

impairment or to complete a BART analysis. Consequently, the FWS and IMPROVE directed ARS to install an 8mm time-lapse camera system at Moosehorn. The ARS installed the camera on October 5, 1987.

As noted above, the FWS has identified the GP pulp and paper mill as the probable source of impairment existing within the Moosehorn Wilderness. The mill is approximately 7 km from the northern section of Moosehorn Wilderness. The camera system installed at Moosehorn has recorded a visible plume emitted nearly every day from the mill. Under certain conditions, the plume appears to cross the wilderness boundary causing impairments in the wilderness area.

However, as discussed above, the newly revised settlement agreement provides for further deferral of EPA's decision concerning BART analysis for the GP mill, pending completion of the PSD permit process currently underway by the State of Maine. The PSD permit process includes review of existing sources of plume blight at the mill. The existing impairment may be reduced, and a BART analysis rendered unnecessary if, as EPA anticipates, additional air pollution controls on existing facilities are required by the PSD permit and other existing facilities which are contributing to impairment are retired from service. Following issuance of the PSD permit, monitoring activities will continue at Moosehorn. The EPA will decide no later than August 31, 1989 the necessity for BART or other control measures to remedy impairments in Moosehorn.

F. Roosevelt Campobello International Park, New Brunswick, Canada

The RCIP Commission previously noted impairments existing within integral vistas associated with the park. Because of the proximity of the GP paper mill to RCIP, EPA believed that impairments in the RCIP may have been attributable to the mill. The mill is approximately 45 km northwest of RCIP and is generally 40 km northwest of the integral vistas.

The RCIP Commission requested the NPS to study potential impacts of GP's proposal to install a new boiler at the Woodland Mill. In a September 28, 1987 letter to the RCIP Commission, the NPS stated that

> * * * based on the emission limitations proposed for the future mill configuration, there is little potential for the visibility in RCIP or the integral vistas associated with the park to be affected adversely. Various visibility parameters were assessed and compared to thresholds of human perceptibility. Based on the outputs from the visibility model, NPS determined that the magnitude of a plume from the proposed project, were it to cross into the park or its integral vistas, would be smaller than the presently accepted levels at which a human could perceive a plume. Given these results, NPS is of the opinion that the potential for visibility impacts in RCIP or the associated integral vista is low.[7,8]

Accordingly, the EPA considers it unnecessary at this time to revise the FIP for Maine to include BART requirements or other control measures to remedy impairments at RCIP. If additional impairment is identified, it will be addressed in the 3-year periodic review of Maine's long-term strategy.

Incomplete Integral Vista Identification

On December 2, 1980, EPA promulgated its visibility regulations as required by section 169A of the Act (45 FR 80084, codified at 40 CFR 51.300, *et seq.*). The visibility regulations require States to consider, in all aspects of visibility protection, any integral vistas identified by the FLM as critical to the visitor's enjoyment of the Class I areas. An integral vista is defined as "a view perceived from within a Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal areas."

On February 27, 1981, the FLM for RCIP proposed to designate four integral vistas for the park, including Con Robinson's Point (46 FR 14508). As noted in the preliminary proposal, the FLM identified Grand Manan as a key feature viewed from Con Robinson's Point. There were no objections to the inclusion of Grand Manan as a key feature of this vista. Thus, when the FLM submitted its final identification of integral vistas and related key features to the **Federal Register** for publication, the FLM again identified Grand Manan as a key feature of Con Robinson's Point. However, the final **Federal Register** notice, as printed, inadvertently omitted this key feature (46 FR 22707).

On November 24, 1987, EPA amended its regulations to include in Part 81 the integral vistas and related key features for the RCIP as they appeared in the final **Federal Register** identification at 46 FR 22707 (52 FR 45132). Part 81 thus fails to include Grand Manan as a key feature of the Con Robinson's Point vista. Subsequently, the RCIP Commission notified EPA of the error of omission and requested the EPA to amend Part 81 to restore Grand Manan to the list of key features viewed from Con Robinson's Point.[9]

The Commission also requested clarification concerning the final column of the table of vistas associated with the RCIP, designated as the "Also Viewed From" column. The Commission stated that this column has been incorrectly interpreted to mean that all key features of a vista are viewed from the designated location. The Commission noted that the intent of the "Also Viewed From" column was to indicate that portions of the vista, not necessarily the key features, are viewed from the designated location. For example, although portions of the Friar's Head vista may be viewed from the Roosevelt Cottage and Beach area, not all key features in the Friar's Head vista are visible from this area.

The Commission, therefore, requested the EPA to amend Part 81 to replace in the "Also Viewed From" column the word "portions" with "an asterisk" and the word "features" to read "*features viewed from (designated location)." In addition, the Commission requests the EPA to include an asterisk next to those key features that may also be viewed from each designated location.

Accordingly, the EPA is proposing to amend Part 81 per the FLM instruction to remedy the inadvertent omission of Grand Manan as a key feature viewed from Con Robinson's Point, and to clarify the scope of the integral vistas for the RCIP.

In 40 CFR 51.301(g), EPA identified the chairman of the RCIP Commission as the FLM for the RCIP. This notice proposes to correct 40 CFR 81.437 to include that notification.

Solicitation of Comments

The EPA solicits comments on the proposed decision finding that, because no visibility impairment in Voyageurs National Park, Saguaro Wilderness, Petrified Forest National Park, and the Roosevelt Campobello International Park can be traced to specific sources, it is unnecessary at this time to include in the FIP's for Arizona, Maine, and Minnesota BART requirements and other control measures.

The EPA has established a docket for this proposal, Docket Number A-88-22. The docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA during this proceeding. This docket will serve as the record in the case of judicial review under section 307(b) of the Act, 42 U.S.C. 7607(b).

Classification

The Administrator certifies pursuant to the provisions of 5 U.S.C. 605(b) that

[7] See letter from NPS to RCIP Commission (September 28, 1987).

[8] See letter from RCIP Commission to David Stonefield (July 25, 1988).

[9] See letter from RCIP Commission to David Stonefield (April 8, 1988).

the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

The proposed rules do not contain any information collection requirements subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980, U.S.C. 3501 *et seq.*

The proposed rules implement part of Subpart P (40 CFR 51.300 through 51.307) which was promulgated on December 2, 1980. An economic impact assessment was made for promulgation of Subpart P and can be found in Docket Number A-79-40.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because: (1) The national annualized costs total less than $100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets. This regulation was submitted to OMB for review as required by Executive Order 12291. Any written communication between OMB and EPA pertaining to the standards has been put in Docket Number A-88-22.

List of Subjects in 40 CFR Part 81

Air quality planning areas, Class I areas, Integral vistas.

Date: September 1, 1988.

John A. Moore,

Acting Administrator.

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

PART 81—[AMENDED]

1. The authority for Part 81, Subpart D, continues to read as follows:

Authority: Sec. 101(b)(1), 110, 169(a)(2), and 301(a), Clean Air Act as amended (42 U.S.C. 7401(b), 7410, 7491(a)(2), 7601(a)).

2. Section 81.437 is amended by revising footnote 1 to Table 1 and Table 2, columns 4 and 5, to read as follows:

§ 81.437 New Brunswick, Canada.

TABLE 1

Area name	Acreage	Public law establishing	Federal land manager
Roosevelt Campobello International Park	2,721	88-363	(1)

[1] Chairman, RCIP Commission.

TABLE 2.—INTEGRAL VISTAS ASSOCIATED WITH MANDATORY CLASS I AREAS

Park	Observation point	View angle	Key features	Also viewed from
Roosevelt Campobello International Park.	Roosevelt Cottage and Beach Area	244°-56°	Este Head *	* Features viewed from Friar's Head.
			Eastport *	
			North Lubec *	
			Cobscook Bay *	
			Shackford Head *	
			St. Andrews *	
			Friar's Head *	
			Treat's Island *	
			Passamaquoddy Bay *	
			Deer Island *	
			Indian Island *	
			Rouen Island *	
			Cherry Island *	
			Thrumcap Island *	
			Owen House *	
			Welshpool *	
	Friar's Head	154°-94°	Roosevelt Cottage *	* Features viewed from Roosevelt Cottage and beach area.
			Campobello Island *	
			Weir *	
			Friar's Bay *	
			Welshpool *	
			Wilson's Beach	
			North Road	
			Head Harbour Passage *	
			Casco Island	
			Green Island	
			Pope Island *	
			Thrumcap Island *	
			Cherry Island *	
			Kouen Island *	
			Indian Island *	
			Deer Island *	
			Passamaquoddy Bay *	
			Old Sow Whirlpool *	
			St. Andrews	
			Eastport *	
			Friar Roads *	
			Estes Head *	
			Perry *	
			Shackford Head *	
			Pembroke *	
			Cobscook Bay *	
			Treat's Island *	
			Major's Island	
			North Lubec *	
			Passamaquoddy Dam, portion of *.	
			Roger's Island	
			Dudley Island	
			Johnson's Bay *	
			Pope's Folly	
			Cutler Naval Radio Station	
			Lubec	
			Mulholland Point Lighthouse	
			FDR Memorial Bridge	
			South Lubec	
			Grand Manan Island	
	Con Robinson's Point	308°-150°	Herring Cove Beach	* Features viewed from Liberty Point.
			Provincial Park	
			Eastern Head	
			Herring Cove	
			Mainland New Brunswick *	
			Point La Preau *	
			Wolf Islands *	
			Atlantic Ocean *	
			Grand Manan Island *	
	Liberty Point	34°-236°	Ragged Point	* Features viewed from Con Robinson's Point.
			Mainland New Brunswick *	
			Atlantic Ocean *	
			Wolf Islands *	
			Grand Manan Island *	
			Sail Rock	
			West Quoddy Head Lighthouse	
			South Lubec	

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Part III

Federal Communications Commission

47 CFR Part 90

Public Safety National Plan and Public Safety Bands; Disposition of Petitions for Reconsideration; Final Rule and Notice of Inquiry

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[Gen. Docket No. 87-112; FCC 88-247]

Development and Implementation of a Public Safety National Plan and Amendment To Establish Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; disposition of petitions for reconsideration.

SUMMARY: On December 18, 1987, the Commission released a Report and Order establishing policies, rules and technical standards for use of the 821-824/866-869 MHz public safety bands. This document addresses four petitions submitted in regard to various decisions contained in that Report and Order.

FOR FURTHER INFORMATION CONTACT: Marty Liebman, Policy and Planning Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration, General Docket No. 87-112, adopted July 20, 1988, and released September 7, 1988.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order on Reconsideration

1. This Memorandum Opinion and Order on Reconsideration addresses four petitions for reconsideration relating to the Commission's Report and Order adopting the rules and standards for use of the 821-824/866-869 MHz public safety bands (53 FR 1022, January 15, 1988).

2. General Electric Mobile Communications Business (General Electric) asked that the Commission reconsider its decision in the Report and Order with regard to trunking standards. Specifically, General Electric requested that the Commission take steps to establish a trunking standard for equipment operating in the 800 MHz public safety bands.

3. The Cellular Telecommunications Industry Association (CTIA) requested that the Commission ensure that transmissions in the 821-824/866-869 MHz bands do not cause interference to the adjacent 824-849/869-894 MHz cellular bands.

4. The International Municipal Signal Association and the International Association of Fire Chiefs (IMSA/IAFC) requested reconsideration and clarification on two issues relating to the functions and authority of the Regional Planning Committees (RPCs). First, they asked that the Commission ensure that all eligible entities in the public safety and special emergency radio services are afforded fair treatment in obtaining channels in the 821-824/866-869 MHz bands; and second, they request that the Commission clarify the exact responsibilities of regional planning committees in the reassignment of below-800 MHz frequencies.

5. The New Jersey Division of State Police (New Jersey) requested that the Commission permit users of 806-821/851-866 MHz systems to modify their equipment to add new channels in the 821-824/866-869 MHz bands without requiring that the equipment be type accepted as conforming to the revised technical standards contained in the Report and Order.

6. With regard to the General Electric petition, the Commission concluded that more information should be obtained on the subject of a uniform trunking standard. The Commission, therefore, directed that a new Notice of Inquiry be initiated to address this matter.

7. On the CTIA petition, the Commission indicated that the likelihood for interference to the lowest cellular channel (Channel 991) from the highest public safety channel (Channel 830) was minimal. The Commission, however, encouraged cellular operators to provide public safety regional planners with the locations of service areas that might be affected. The Commission also asked regional planners to notify licensees of existing cellular systems when construction of public safety systems using Channel 830 was contemplated within cellular service areas.

8. With respect to the IMSA/IAFC petition, the Commission reaffirmed that all public safety and special emergency services would be fairly represented on regional planning committees. The Commission also declared that regional planning committees would have the freedom to consider below-800 MHz public safety bands in developing their regional plans, but that the licensing of channels in these bands would continue to be conducted through existing frequency coordination procedures.

9. In addressing the New Jersey petition, the Commission decided that users of 806-821/851-866 MHz systems could modify their equipment to add new channels in the 821-824/866-869 MHz bands without performing all the technical modifications necessary to conform such equipment to the revised technical standards. Users planning to make such modifications to their 806-821/851-866 MHz systems would, however, be required to notify their regional planning committee and would have to reduce the frequency deviation of their equipment to +/− 4 kHz. The Commission's decision in this matter applied only to 806-821/851-866 MHz equipment in agency possession or on order prior to the release date of this Memorandum Opinion and Order on Reconsideration. After this date, modified equipment would have to comply with all of the revised technical standards.

Ordering Clauses

10. *It Is Ordered* under the authority granted in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303, that the Petition for Reconsideration filed by General Electric Mobile Communications Business is *Granted* to the extent indicated herein and otherwise is *Denied.*

11. *It Is Further Ordered* that the Petition for Clarification filed by the Cellular Telecommunications Industry Association is *Granted* to the extent indicated herein and otherwise is *Denied.*

12. *It Is Further Ordered* that the Petition for Reconsideration and Clarification filed by the International Municipal Signal Association and the International Association of Fire Chief is *Granted* to the extent indicated herein and otherwise is *Denied.*

13. *It Is Further Ordered* that the Petition for Reconsideration filed by the New Jersey Division of State Police is *Granted* to the extent indicated herein and otherwise is *Denied.*

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-20805 Filed 9-14-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[Gen. Docket No. 88-441; FCC 88-287]

Technical Compatibility Protocol Standards For Equipment Operating in the 800 MHz Public Safety Bands

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: In a decision contained in a Memorandum Opinion and Order on Reconsideration, adopted July 20, 1988, the Commission directed that a Notice of Inquiry be initiated to gain information on the subject of trunking standards. This Notice, therefore, requests public comment on various issues and questions relating to trunking compatibility protocol standards for equipment operating in the 800 MHz public safety bands.

DATES: Comments may be filed on or before October 17, 1988, and reply comments may be filed on or before November 3, 1988.

ADDRESS: Federal Communications Commission, Office of the Secretary, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marty Liebman, Policy and Planning Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Inquiry, Gen. Docket No. 88-441, adopted August 26, 1988, and released September 7, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Inquiry

1. On December 18, 1987, the Commission released a Report and Order adopting policies, service rules and technical standards to govern the use of the 821-824/866-869 MHz public safety spectrum (53 FR 1022, January 15, 1988). Five petitions were filed asking reconsideration of that Report and Order. One of these petitions was submitted by General Electric Mobile Communications Business asking that the Commission reconsider its decision in the Report and Order with regard to trunking standards for equipment operating in the 800 MHz public safety bands.

2. The Commission addressed this petition in a Memorandum Opinion and Order on Reconsideration adopted on July 20, 1988, the summary of which is published immediately preceding this notice of inquiry. In that action, the Commission concluded that a further proceeding was necessary to explore fully the question of trunking standards. This Notice of Inquiry initiates this proceeding.

3. In this Notice, the Commission requests public comment on various questions relating to (1) the timeframe necessary for developing standards, (2) whether a trunking standard will result in interoperability, and (3) the effect trunking standards might have on the cost of radio equipment and the evolution of trunking technology.

4. The Commission invites all interested parties to comment on the issues raised in the Notice.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-20806 Filed 9-14-88; 8:45 am]

BILLING CODE 6712-01-M

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Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 and 175

Implementation of the International Civil Aviation Organization's Technical Instructions; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 175

[Docket No. HM-184E; Notice No. 88-4]

Implementation of the International Civil Aviation Organization's Technical Instructions

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft when the 1989–1990 edition of the ICAO Technical Instructions becomes effective on January 1, 1989, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

DATE: Comments must be received by November 14, 1988.

ADDRESS: Address comments to Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard Barlow, Acting International Standards Coordinator, Office of Hazardous Materials Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-0656.

SUPPLEMENTARY INFORMATION: On December 12, 1986, RSPA published a final rule in the **Federal Register** (51 FR 44790) under Docket HM-184D. The final rule authorized, under certain conditions and with certain limitations, hazardous materials to be packaged, marked, labeled, classified, described and certified on shipping papers as provided in the 1987–1988 edition of the ICAO Technical Instructions, and to be offered, accepted and transported by aircraft within the United States and aboard aircraft of United States registry anywhere in air commerce. It was necessary that these amendments be published in order to provide consistency between the Hazardous Materials Regulations (HMR) and the ICAO Technical Instructions because the ICAO Technical Instructions have become the basic standard applied to the transport of hazardous materials by aircraft worldwide. A more detailed explanation of the reasons for this action was provided in an earlier notice of proposed rulemaking published under Docket No. HM-184 on August 2, 1982 [47 FR 33295].

Since publication of the final rule under Docket No. HM-184D, ICAO has developed a number of amendments to the ICAO Technical Instructions. These amendments have been incorporated in the 1989–1990 edition of the ICAO Technical Instructions which will become effective on January 1, 1989. In order to facilitate the international transportation of hazardous materials by aircraft by insuring a basic consistency between the HMR and the ICAO Technical Instructions, the RSPA believes it is necessary to amend certain provisions of the HMR to reflect changes introduced in the 1989–1990 edition of the ICAO Technical Instructions. The purpose of this rulemaking action is to propose these necessary amendments to the HMR.

The following changes are proposed:

Section 171.7. The reference to the 1987–1988 edition of the ICAO Technical Instructions in paragraph (d)(27) of 49 CFR 171.7 would be updated to refer to the 1989–1990 edition.

Section 175.10. Part 1, section 2.4.2 of the ICAO Technical Instructions has been amended to permit non-catalytic hair curlers containing hydrocarbon gas to be carried on aircraft. The restriction requiring such curlers to be contained only in checked baggage has also been removed. The exception for catalytic hair curlers containing hydrocarbon gas in paragraph (a)(21) of 49 CFR 175.10, which is currently aligned with the corresponding text of the 1987–1988 edition of the ICAO Technical Instructions, would be amended to reflect changes incorporated in the 1989–1990 edition of the ICAO Technical Instructions.

Administrative Notices

Executive Order 12291

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures [44 FR 11034]; (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation is available for review in the Docket.

Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

Based on limited information concerning size and nature of entities likely to be affected by this final rule, I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporation by reference.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, 49 CFR Parts 171 and 175 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for Part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 171.7, paragraph (d)(27) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284-AN/905 (ICAO Technical Instructions), 1989–1990 edition.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

3. The authority citation for Part 175 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

4. In § 175.10, paragraph (a)(21) would be revised to read as follows:

§ 175.10 Exceptions.

(a) * * *

(21) Hair curlers containing hydrocarbon gas, no more than one per passenger or crew member, provided that the safety cover is securely fitted over the heating element. Gas refills for such curlers are not permitted in checked or carry-on baggage.

* * * * *

Issued in Washington, DC, on September 8, 1988.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 88-20967 Filed 9-14-88; 8:45 am]

BILLING CODE 4910-60-M

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Part V

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926

Concrete and Masonry Construction Safety Standards; Lift Slab Construction; Notice of Proposed Rulemaking

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-301B]

Concrete and Masonry Construction Safety Standards; Lift Slab Construction

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of proposed rulemaking; Availability of new information on lift-slab construction.

SUMMARY: This Notice announces that the Occupational Safety and Health Administration (OSHA) is reproposing its Construction Safety Standards for Lift-Slab Operations. Specific requirements for lift-slab operations were originally proposed for revision as part of the Notice of Proposed Rulemaking (NPRM) for Concrete and Masonry Construction. The purpose of the reproposal is to update the specific lift-slab requirements which have been incorporated by reference from the American National Standard Safety Requirements for Concrete Construction and Masonry Work, ANSI A10.9-1970. In addition, OSHA proposes to promulgate and codify directly into the OSHA standards, new requirements to protect the safety and health of workers engaged in lift-slab operations. By this revision, OSHA will eliminate any ambiguities caused by incorporating standards by reference and will also strengthen the lift-slab requirements by eliminating weaknesses or gaps in coverage that exist through the reference to the outdated ANSI standard.

DATES: Comments on this proposal must be postmarked by November 14, 1988. Hearing requests must be postmarked by November 14, 1988.

ADDRESS: Comments and requests for a hearing are to be sent to the Docket Officer, Docket No. S-301B, U.S. Department of Labor, Room N3670, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N3637, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Background

Congress amended the Contract Work Hours Standards Act [40 U.S.C. 327 et seq.] in 1969 by adding a new section 107 (40 U.S.C. 333) to provide employees in the construction industry with a safer work environment and to reduce the frequency and severity of construction accidents and injuries. The amendment, commonly known as the Construction Safety Act [Pub. L. 91-54; August 9, 1969], significantly strengthened employee protection by providing for occupational safety and health standards for employees of the building trades and construction industry in Federal and Federally-financed or Federally-assisted construction projects. Accordingly, the Secretary of Labor issued Safety and Health Regulations for Construction in 29 CFR Part 1518 (36 CFR 7340, April 17, 1971) pursuant to section 107 of the Contract Work Hours and Safety Standards Act.

The Occupational Safety and Health Act (OSH Act) (84 Stat. 1590; 29 U.S.C. 651 et seq.), which was enacted by Congress in 1970, authorized the Secretary of Labor to adopt established Federal standards issued under other statutes, including the Construction Safety Act, as occupational safety and health standards. Accordingly, the Secretary of Labor adopted the Construction Standards, which were issued under the Construction Safety Act in 29 CFR Part 1518, under section 6(a) of the OSH Act (36 FR 10466, May 29, 1971). The Safety and Health Regulations for Construction, Part 1518, were redesignated as Part 1926 at the end of 1971 (36 FR 25232, December 30, 1971). The standard entitled Concrete, Concrete Forms, and Shoring, §§ 1926.700 through .702, was adopted as an OSHA standard as part of this process. As discussed below, this standard was partially revised on June 16, 1988, based on an earlier proposal.

On September 16, 1985, OSHA proposed to revise its construction industry safety standard addressing concrete and masonry construction (50 FR 37543). One section of the proposed standard contained specific requirements for lift-slab construction operations. Comments on the proposed standard were received by OSHA through December 16, 1985. A public hearing was held in Washington, DC, to discuss the proposed rule on June 17-18, 1986. A final rule was published on June 16, 1988 (53 FR 22612). In that final rule, OSHA indicated that it was not revising the existing requirements for lift-slab operations until the record could be reopened on that issue and new information and evidence entered into the record. That new information would then be used as a basis for promulgating revised standards for lift-slab operations. The reopening of the record was necessitated by a tragic accident involving the lift-slab method of construction.

Specifically, on April 23, 1987, a 13-story, two-tower building (the L'Ambiance Plaza) under construction in Bridgeport, Connecticut, collapsed. The L'Ambiance Plaza building was being erected using the lift-slab construction method. Twenty-eight construction workers were killed and 10 injured in that collapse, making it the highest death toll from a workplace accident in the United States since 15 employees were killed in 1978 during construction of a cooling tower at Willow Island, West Virginia. OSHA immediately began an investigation with the assistance of the National Bureau of Standards (NBS) of the U.S. Department of Commerce. The following excerpt is taken from the NBS Report entitled, "Investigation of the L'Ambiance Plaza Building Collapse in Bridgeport, Connecticut, NBSIR 87-3640" (Ex. 34).

> The most probable cause of the collapse was determined to be loss of support at a lifting jack in the west tower during placement of an upper level package of three floor slabs. The loss of support was likely due to excessive deformation of the lifting angle in a shearhead followed by a lifting nut slipping off the lifting angle of the shearhead. The postulated failure mechanism was duplicated in laboratory experiments. The local failure propagated as loads were redistributed. The remaining jack rods along column line E supporting the package of floor slabs slipped off the lifting angles and the slabs failed in flexure and shear. These slabs fell causing the lower levels slabs to fail.

During the course of the investigation, OSHA began to question the completeness of its proposed safety standards for concrete and masonry construction as they pertained to lift-slab construction operations. A review of the record indicated that OSHA had very little information from comments received in response to the Notice of Proposed Rulemaking, or as a result of the hearings that had been held. In fact, only one comment was directly related to lift-slab construction. OSHA's Advisory Committee on Construction Safety and Health (ACCSH), at its meeting of November 30-December 1, 1982, at which the draft concrete standard was discussed, had not made any specific recommendations to OSHA with regard to the lift-slab provisions.

To ensure that the regulations would provide a proper level of safety to workers engaged in lift-slab construction operations, and to ensure that the L'Ambiance Plaza information would be properly evaluated and considered before revising the lift-slab regulations, OSHA decided to reopen

the record which had been closed on December 8, 1986, to receive the L'Ambiance Plaza information and evidence now available, as well as any other information pertaining to lift-slab construction that may be forthcoming.

As stated above, when OSHA published the Final Rule for Concrete and Masonry Construction, it announced that § 1926.705, Lift-Slab Operations, would not be revised as part of that Final Rule. OSHA also announced that the existing standards (which reference the ANSI A10.9–1970 standards) specific to lift-slab construction operations would continue in effect until completion of the reproposed action.

As a first step in the new rulemaking process for lift-slab operations, OSHA met with its Advisory Committee on Construction Safety and Health (ACCSH). (A copy of the transcript of that discussion can be found at Exhibit 35–2). At the March 30, 1988, ACCSH meeting, OSHA received several recommendations. Specifically, the ACCSH recommended that OSHA include the building columns among the items that must be designed with a safety factor of at least 2.5. ACCSH was referring to the existing ANSI standard that requires that ". . . the threaded rods and other members which transmit loads to the jacks shall have a minimum safety factor of 2.5."

The ACCSH also supported a motion put forth by the ACCSH representative from the Building and Construction Trades Department. The motion was that OSHA require that "Lift-slab operations shall be designed, planned, and supervised by a professional engineer or architect, licensed in the state where the work is being performed."

Finally, ACCSH members discussed their thoughts with regard to employees working under loads including working under slabs which were not secured, passing a motion which stated that as a general rule they did not endorse employees working under any loads. Further discussion on these issues appears in the *Specific Issues* section of this document, where OSHA solicits information on issues which have already generated special attention by affected parties.

Before beginning a summary and explanation of the proposed rule, OSHA feels it is important for readers to have a basic understanding of the lift-slab construction technique. OSHA believes that one of the possible reasons that commenters failed to address lift-slab operations in the original proposal was that this technique is not widely used, accounting for only a small percentage—probably less than one percent—of all building construction activity.

The National Bureau of Standards in their study entitled, *Investigation of L'Ambiance Plaza Building Collapse in Bridgeport, Connecticut* (NBSIR 87–3640) described the lift-slab method as follows:

> In the lift-slab method of construction, floor and roof slabs are cast one on top of the other at ground level. The floors are usually two-way post-tensioned flat plates of either regular or lightweight concrete. After post-tensioning, the slabs are lifted to their positions by hydraulic jacks and are secured to the columns.

NBS goes on to say that "By casting the slabs at ground level, lift-slab construction can eliminate 90 percent of the formwork required for cast-in-place construction and reduce labor requirements. Cost savings and speed of construction are two primary advantages claimed for lift-slab construction." (Ex. 34, p. 1).

OSHA invites readers to compare this technique with other construction techniques, such as cast-in-place construction. During cast-in-place construction, formwork is used to support the weight of freshly placed concrete and continues to provide support until the concrete has achieved the strength necessary to support itself and all superimposed loads. Workers are not prohibited from working in buildings under such loads during the time that the concrete is gaining its strength. However, OSHA does require that the formwork be capable of supporting without failure all loads that may reasonably be anticipated to be applied to the formwork.

In contrast, in the lift-slab method of construction, OSHA is proposing to continue the existing requirement that workers not be permitted to work under slabs which have not been secured, neither would they be permitted to work under slabs that have been secured if other slabs on upper levels were being lifted, a process described in the proposed regulations as "jacking operations." Of course, the proposed requirement would not prohibit essential workers—those workers who have the task of controlling the jacking operations and securing the slabs—from working under slabs.

Prior to the L'Ambiance Plaza collapse, according to one lift-slab contractor, it was common practice for employees to work in buildings being constructed by the lift-slab method just as long as the floor slab immediately above them had been secured. This meant that "jacking operations" may have been in progress on upper levels, and those floors were thus "suspended on the jacks." A failure of any component of the jacking system, not unlike a failure of the formwork system in cast-in-place work, could result in other components being overloaded or in the dropping of a suspended floor which could, in turn, result in total collapse of the building. Such failures have occurred in both cast-in-place and in the lift-slab method of construction. OSHA observes, however, that it has limited data on building failures where the lift-slab method of construction was used. OSHA is only aware of one lift-slab-constructed building failure since its inception in 1971—the 1987 L'Ambiance Plaza failure. Published materials, however, describe several failures that occurred in the years 1952, 1954, 1956, 1961, and 1962. (Reference: Feld, Jacob, *Construction Failure*, John Wiley & Sons, Inc., New York; 1968) (Ex. 35–1).

At the March 30, 1988, ACCSH meeting, a representative of a lift-slab construction firm addressed the Committee and spoke on the subject of employees working under slabs while jacking operations were in progress. (Ex. 35–2, p. 150). Specifically, the representative stated:

> Another very important area of disagreement is our position that other trades be allowed to work inside a building under secured slabs while lifting is in progress on upper floors. This has been the normal practice around the world and really is not different than what is normal practice of other structural methods. Similar conditions exist on multi-story, cast-in-place concrete frames, during the pouring and curing of an upper floor.

The representative further stated:

> On precast frames or masonry frames, the same thing applies during the erection of those precast members. On steel frames, during the erection of the steel members and the pouring of the decks up above, workmen are allowed to do their trades below. We really do not see why our methods should be restrained in the way proposed, from competing with other structural systems.

The public commenter in comparing the risks of precast with lift-slab construction remarked, ". . . some of the precast members are very, very heavy and very large on multi-story buildings; there are trades working below. God forbid, one lets go, there is going to be a catastrophe, there is no question about it . . ." (Ex. 35–2, p. 154).

This statement prompts OSHA to ask for public comment, in the Specific Issues section of this preamble, on whether or not employees working on precast or cast-in-place sites are exposed to the same type of hazard that is being regulated for the lift-slab

technique. (See Question #12 in the Specific Issues section below).

II. Summary and Explanation of Proposal

References to an ANSI standard in this section are to the provisions of the ANSI A10.9–1970 standard, except where noted. The ANSI standard contains a section specific to lift-slab operations. That section has been incorporated by reference in the OSHA standards, thereby serving as the existing standard.

Section 1926.700(b) Definitions.

In paragraph (b)(9) of § 1926.700, OSHA proposes to add a definition of the term "jacking operations." OSHA defines jacking operations as the task of lifting a slab (or group of slabs, sometimes referred to as a "package" or "pick") from one location to another, e.g., from the casting location to a temporary (parked) location, or from a temporary location to another temporary location, or to the final location of the slabs in the structure. The existing standard does not contain a definition for this term, however, OSHA believes it is necessary to define this term so that employers will completely understand the provisions where this term is used.

In paragraph (b)(10) of § 1926.700, OSHA proposes to add a definition for the term "qualified designer." OSHA defines qualified designer to mean a person who, by possession of a degree, certification, or professional standing, has demonstrated ability in design in the subject under regulation. In this standard, such an individual must be qualified in the design of lift-slab operations. The existing standard does not contain a definition for qualified designer. However, since the proposed standard contains a provision which uses the term "qualified designer," and because another provision in the existing Concrete and Masonry Construction Standard also contains a provision using the term "qualified designer," OSHA has proposed to define this term. The definition proposed by OSHA is based on the ANSI definition for qualified designer that is contained in the ANSI A10.9–1983, American National Standard for Construction and Demolition Operations—Concrete and Masonry Work—Safety Requirements. Since the requirements for lift-slab operations are almost exclusively taken from the ANSI standard and the ANSI standard is the consensus standard for Concrete and Masonry Work, OSHA believes it is appropriate to base its definition on the most recent ANSI standard.

OSHA invites specific comment (see Question #1 in the Specific Issues section below) on an issue related to this definition, which may require OSHA to define additional terms or, perhaps, to delete the term defined here. Specifically, OSHA is asking for information on whether or not it should require the employer to have a professional engineer or architect, licensed in the state where the work is to be performed, to design and plan the lift-slab project instead of a "qualified designer." OSHA is also requesting comment on whether or not a person (a registered professional engineer, for example) other than, or perhaps in addition to, the contractor should supervise the construction operation.

Section 1926.705 Lift-slab operations.

Section 1926.705 of the proposed rule contains specific requirements for lift-slab construction operations and are in addition to the general requirements for all concrete construction contained in other sections of Subpart Q (Concrete and Masonry Construction) of 29 CFR Part 1926.

Paragraph (a) would require that lift-slab operations be designed and planned by a qualified designer (i.e. qualifed in lift-slab operations); that all plans and designs be implemented by the employer; and, that the plans and designs include detailed instructions and sketches indicating the prescribed method of erection. The existing rule, ANSI section 11.2, contains essentially the same provision except that it requires a *"qualified professional engineer or architect"* to design and plan the lift-slab operations. OSHA is proposing to revise the existing rule to bring it in line with the most recent ANSI Standard, A10.9–1983, which in section 10.2, requires a *"qualified designer"* to plan and design lift-slab operations.

OSHA has received one recommendation with regard to this provision. That recommendation came from the members of the ACCSH who recommended that the proposed paragraph (a) requirement for a qualified designer be changed to require that a professional engineeer or architect, licensed in the state where the work would be done, plan, design, and supervise the erection process. Specific public comment is requested on this point in Question #1 of the Specific Issues section below.

Paragraph (b) of the proposed rule would require that jacks be marked to indicate the rated capacity established by the manufacturer. This is an existing requirement in § 1926.305(a)(1) and it applies to all jacks used in construction activities. OSHA is not recommending any substantive revision to this provision, but is simply repeating this provision in the lift-slab operation section in an effort to locate all requirements unique to lift-slab operations in the same section of the construction safety and health standards. OSHA believes it is necessary for employers to ensure that each jack has the rated capacity marked so there will be no question as to what loads can be placed on the jacks.

Paragraph (c) of the proposed rule would require that jacks not be loaded beyond the rated capacity established by the manufacturer. This, too, is an existing requirement in § 1926.305(a)(1), and is being repeated in the proposed lift-slab section for the same reasons discussed in (b) above. Again, OSHA is not recommending any substantive revision to this existing requirement.

Paragraph (d) of the proposed rule would require that jacking equipment not be overloaded and that the threaded rods and other members that transmit loads to the jacks be capable of supporting at least two and one-half times the load to be applied. This provision is an existing requirement in section 11.3.1 of the ANSI standard. The provision is also continued in the more recent ANSI A10.9–1983 standard in section 10.3.1. OSHA is proposing to change the existing requirement by including in the provision, the identity of some of the jacking equipment components which are subject to the 2.5 factor of safety. Specifically, OSHA interprets, as recently clarified by the American National Standards Institute (Ex. 35–3), that the 2.5 safety factor applies to all the jacking equipment including, but not limited to, jacks and other lifting units, lifting angles, lifting nuts, hook-up collars, T-caps, shearheads, columns, and footings. OSHA realizes that there may be some disagreement over whether or not it is necessary to require the shearheads, columns, and footings to be designed with a 2.5 safety factor and has addressed this issue in Question #2 of the Specific Issues section below. OSHA has not attempted to identify every single component that would be considered jacking equipment because as new contractors enter the lift-slab construction business, they may not identify their components with the same names used by other contractors. OSHA does not wish to create loopholes by failing to identify specifically every component that could possibly be a part of the jacking equipment nor does it want to be vague about which

components must meet the 2.5 safety factor.

OSHA is considering further revision of this provision and has asked comment about it in Question #4 of the Specific Issues section below.

Paragraph (e) of the proposed rule would require that jacks be installed and designed so that they will neither lift nor continue to lift when their rated capacity is exceeded. This proposed requirement is essentially the same as the existing requirement found in section 11.3.2 of the ANSI A10.9–1970 standard, and is also essentially the same as section 10.3.2 of the most current ANSI standard, A10.9–1983. OSHA observes that a similar provision was proposed in the NPRM of 1985, however, no comments were received on the 1985 NPRM provision.

Paragraph (f) of the proposed rule would require that jacks used in lift-slab construction be equipped with a safety device which will enable the jacks to support the load in any position in the event any jack malfunctions or loses its lifting ability. OSHA observes that this proposed provision is essentially the same as an existing requirement in § 1926.305(b)(1) and is also identical to both a provision in section 11.3.3 of the ANSI A10.9–1970 standard and to section 10.3.3 of the updated ANSI A10.9–1983 standard. OSHA notes that one comment received on the 1985 NPRM related to this provision. That comment was from the Washington Metropolitan Area Construction Safety Association (WMACSA) (Ex. 14–29) who suggested that OSHA add a requirement to install the safety device as required by this paragraph. WMACSA supported the need for this provision by pointing out that the ANSI A10.9 standard contained such a provision in the lift slab section.

OSHA observes, as stated above, that the existing requirement in § 1926.305(b)(1), nearly identical to the ANSI requirement, already addresses this hazard. However, because OSHA believes it is important to locate all provisions unique to lift-slab construction in the same section of its regulations, it has determined that this provision and another provision specifically related to lift-slab jacks in § 1926.305(b)(2), should be relocated to the lift-slab operations section of the Concrete and Masonry Construction Standards. These two provisions are identified as paragraphs (f) and (h) of this proposed rule. OSHA proposes to remove the requirements entirely from their present location—§ 1926.305(b)—to avoid further confusion.

Paragraphs (g), (h), and (i) contain three requirements which are essentially the same as existing requirements in section 11.4 of the ANSI A10.9–1970 standard and essentially the same as the provisions in Section 10.4 of the ANSI A10.9–1983 standard, except that in the ANSI documents all three of the requirements are combined into one paragraph. Also, as discussed above, paragraph (h) of the proposal contains essentially the same requirement as the existing provision in § 1926.305(b)(2). The intent of these requirements is to prevent subjecting the slab to stresses beyond the engineered limits. OSHA observes that a failure in the slab could result in collapse of the building which most likely would be accompanied by injury and death of workers.

Paragraph (g) of the proposed rule would require the employer to synchronize jacking operations in a manner that will ensure all points of the slab support are kept within ½ inch of that needed to maintain the slab in a level position.

Paragraph (h) of the proposed rule would require that where leveling is automatically controlled, the employer must install a device to stop the operation when the ½ inch leveling tolerance is exceeded or where there is a malfunction in the jacking system.

Paragraph (i) of the proposed rule would require that where leveling is maintained by manual controls, the employer must locate such controls in a central location and have a competent person attend the controls while lifting is in progress.

OSHA proposes to separate the three distinctive requirements and propose one change in paragraph (i). In particular, OSHA proposes that a *competent person* be required to attend the controls while lifting is in progress and leveling is maintained by manual controls. OSHA observes that the 1970 ANSI standard prescribes that a "trained operator" attend the manual controls, whereas the 1983 ANSI A10.9 standard prescribes that a "qualified person" attend the controls. OSHA believes a competent person, as defined in § 1926.32(f), is the appropriate term to use in this standard to describe the qualifications of the person who attends the controls. Additionally, OSHA observes that the term "competent person" is used in many provisions of the construction safety and health standards to describe the minimum level of experience and authority needed to provide an acceptable level of safety for workers.

For these reasons, OSHA is proposing to revise the existing requirement by substituting the term "competent person" for the existing term, "trained operator," so that the provision would require that a *competent person* attend the controls while lifting is in progress. OSHA notes that the term competent person is defined in § 1926.32(f) to mean "one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them."

OSHA also notes that it proposed an essentially similar requirement in its 1985 Notice of Proposed Rulemaking. There were no comments on this particular provision of the 1985 proposal.

Paragraph (j) of the proposed rule would require the employer to limit the maximum number of manually controlled jacks on one slab to a number that will permit the operator to maintain the slab level within specified tolerances. This provision is similar to a provision in section 11.3.4 of the ANSI standard, and also to the provision in section 10.3.4 of the ANSI A10.9–1983 standard except that both of the ANSI standards specify that the number of jacks should not exceed *14*. ANSI further prescribes that in no event should the number of jacks be too great to permit the operator to maintain the slab level within specified tolerances.

However, in keeping with OSHA's efforts to develop more performance-oriented standards, OSHA is proposing to revise the existing requirement to eliminate the specific number "14" and instead require the employer to limit the number of jacks on one slab to a number that will permit the operator to maintain the slab level within specified tolerances. OSHA notes that it is unaware of the reasons why both the 1970 and 1983 ANSI standards specify the number 14 since OSHA believes that common industry practice is to operate all jacks automatically, except in limited situations such as when setting wedges. During the wedge setting phase, automatic jacking operations may cease while individual jacks are operated manually, as needed, to complete the wedge setting operation. This process normally involves the manual control of only one or two jacks. Thus, OSHA has proposed to revise the existing requirement as stated above.

OSHA invites comments on whether or not it should continue to specify the maximum number of jacks as the ANSI standards do. Specifically, OSHA would like to know if employee safety would be enhanced if OSHA specified a maximum number of jacks that could be used on one slab? OSHA also questions whether "14" is the appropriate number.

If not, what is the appropriate number and what are the reasons for recommending a number that differs from ANSI?

Paragraph (k) of the proposed rule would require the employer to prohibit employees (except those essential to the jacking operation) from being in the building while any jacking operation is taking place. OSHA would explain in this provision that a jacking operation begins when a slab (or groups of slabs) is lifted and ends when such slabs are secured with either temporary or permanent connections.

The proposed provision is based on provisions in both the 1970 and the 1983 versions of the ANSI A10.9 standard. OSHA notes that ANSI has recently provided an interpretation of these provisions. (Ex. 35-3). Specifically, ANSI interpreted the provisions to mean that no one is permitted anywhere below any slab being jacked, noting that the restriction prohibits employees (except those essential for the jacking operation and to secure the slabs) from working below lower floor slabs which are secured temporarily or permanently if any upper floor slab is being jacked.

The proposed provision is somewhat different from the existing standard as interpreted by ANSI in that the proposed provision prohibits employees from being "in the building" rather than just "below any slabs during jacking operations"—the language used in ANSI's interpretation. The proposed provision is intended to clarify those situations where a building has been divided into sections or portions for the purpose of carrying out lifing operations. For example, a building may be so large that rather than lift the entire floor in one jacking operation, the floors may be cast and lifted in two sections. Thus, it is possible that using the ANSI language, employers could misunderstand the provision to mean that while one section was being lifted, employees would be permitted to work in another section as long as no jacking operations were being carried out in that section. However, a review of the disaster at L'Ambiance Plaza in Bridgeport, Connecticut, (where the Plaza was constructed as two towers) shows that employees are at risk if they are allowed to remain in one portion of a structure or building while another portion is being lifted. Thus, OSHA believes that in order to afford a proper level of safety, all nonessential employees must be removed from the entire building while any jacking operation is taking place. OSHA observes that compliance with this proposed provision may have saved many of the lives lost in the Bridgeport disaster.

Additionally, OSHA notes that using the lift-slab construction technique, floor slabs are cast at ground level and later lifted to their final position. OSHA has determined that if a slab(s) being lifted were to fall, even where it is several floors above where employees are located, it has the potential to continue its descent until reaching ground level, with possible catastrophic consequences. This is essentially what happened in the Bridgeport collapse. Therefore, in order to protect employees from this hazard, OSHA believes nonessential employees must leave the building whenever any jacking operations are taking place. Employees would not be permitted to reenter any such building until jacking operations have ended, i.e., all the slabs are secured. To facilitate compliance with this provision, employers may need only to schedule their jacking operations at times when other trades are not present, e.g., at night or on weekends.

Paragraph (l) of the proposed rule would require that when making temporary connections, the wedges must be secured by tack welding or an equivalent method of securing. This would be a new provision which OSHA is proposing because it has come to OSHA's attention that there is some confusion with regard to how wedges need to be secured before releasing the load from the lifting unit (i.e., jack). In particular, OSHA staff on at least one occasion has had discussions with a lift-slab contractor regarding the contractor's intent to use chicken wire and other unacceptable materials to secure the wedges when making temporary connections of floor slabs to columns. OSHA believes that it is vitally important for the safety of workers that temporary connections be secured by tack welding or other equivalent method.

Paragraph (m) of the proposed rule would require that all welding on temporary and permanent connections be performed by a certified welder who is familiar with the welding requirements specified in the lift-slab plan and specifications. This would be a new provision which OSHA believes would afford a degree of safety which is not afforded by the existing standard. In particular, the existing standard does not address welding of connections and OSHA feels very strongly that only certified welders should be allowed to perform these critical welding tasks. OSHA notes that in order to be classified as a certified welder, the welder must have demonstrated welding ability, and the capability to perform critical welding tasks that would be required to make temporary and permanent connections. It is OSHA's belief that welders who have not demonstrated such abilities (that is, are not "certified") should not perform critical welding tasks when the lives of themselves and other workers are at risk. OSHA observes that a failure of a weld could result in losing support for a slab and ultimate collapse of the building.

Additionally, OSHA observes that in its conversations with two U.S. construction firms who use the lift-slab technique, both stated that only certified welders were hired for critical welding tasks. Apparently both these firms recognize, as OSHA does, the critical role that these welding tasks play with regard to worker safety. (Note that OSHA seeks additional information on certified welders in Question #13 in the Specific Issues section below).

Paragraph (n) of the proposed rule would prohibit load transfer from the jacks to the building columns until the welds on the column shear plates are cooled to air temperature. This would be a new provision. It is based on a provision in section 10.6 of ANSI A10.9-1983. OSHA believes that the ANSI provision appropriately addresses the hazard of transferring loads onto welds that have not yet cooled.

III. Specific Issues

The public is invited to comment on the following issues. The comments should contain adequate information and evidence, when available, to support the position of the writer.

1. OSHA is proposing in § 1926.705(a) that lift-slab operations be designed and planned by a "qualified designer." Would employees be afforded a greater level of protection if OSHA revised this provision to require the work to be done by an "engineer" or "architect?" If so, what particular classification of engineer would afford the appropriate level of protection (e.g., structural, registered professional engineer)? As mentioned above, OSHA has received a recommendation from its Advisory Committee on Construction Safety and Health (ACCSH) that the term "qualified designer" be replaced with the phrase "professional engineer or architect, licensed in the state where the work is to be done." The ACCSH also recommended that the provision be expanded so that the professional engineer or architect would be required to "supervise" the lift-slab project in addition to the designing and planning requirements proposed by OSHA.

OSHA solicits comment on the recommendation.

2. OSHA is proposing in § 1926.705(d) that threaded rods and other members that transmit loads to the jacks be capable of supporting at least two and one-half times the load to be applied. OSHA interprets the words "other members" in this provision to include the shearheads, columns, and footings. There have been indications that some parties disagree with this interpretation, arguing that there is no need to include these components in this provision. In particular, a public participant at the March 30, 1988, ACCSH meeting said (Ex. 35–2, p. 150) that he disagreed with the application of the 2.5 safety factor to columns, shearheads and footings because "these three items are more than adequately covered during normal design practices using standards put forth in the American Institute of Steel Construction, American Concrete Institute, and the Post-Tensioning Institute." OSHA requests comments on whether or not the shearheads and the building columns and footings should be considered "other members" for the purpose of this provision?

3. OSHA believes that it may be appropriate to require employers to prepare a certification record, which they would sign and keep on file for review at the time of an OSHA inspection. The certification record would contain the name of the person or organization that determined that the jacking equipment met the 2.5 safety factor and the date that such determination was made. OSHA invites comments on the benefits to employee safety that would result if OSHA required such an assurance from employers.

4. As discussed in the summary and explanation of this provision, OSHA invites comments on rewording § 1926.705(d) (which as proposed reads essentially the same as the ANSI A10.9–1983 provision) to read as follows:

(a) Jacking equipment shall not be overloaded.

(b) Jacking equipment (such as, but not limited to the following: lifting units (e.g., jacks), threaded rods, lifting angles, lifting nuts, hook-up collars, T-caps, shear plates, shearheads, columns, and footings) shall be capable of supporting at least two and one-half times the load to be applied.

As mentioned above, OSHA is concerned that if it fails to identify all components which are part of jacking equipment, employers will mistakenly believe that not all components must be able to support at least 2.5 times the load to be applied to them. On the other hand, as new employers enter the lift-slab construction business, OSHA is concerned they will rename parts or use parts which are commonly identified by other names, and again mistakenly believe that those components are not subject to the 2.5 safety factor. OSHA notes that existing lift-slab contractors do not always identify jacking equipment components by the same terms, yet the function of the equipment may be essentially the same. OSHA requests comment on how to word this provision to avoid any such misunderstanding.

5. OSHA solicits information on whether or not specific requirements for lateral stability should become a part of the final rule. In particular, OSHA wishes to know whether or not the building plans and specifications typically address lateral stability. And, if so, are such plans and specifications routinely kept at the construction site; are these plans and specifications followed; and who does the employer designate (e.g., a professional engineer, a competent person, or itself) as the person responsible for overseeing compliance with the building plans and specifications? If the building plans and specifications do not address lateral stability, who determines what action will be taken to ensure that lateral stability is provided?

6. OSHA solicits comments on the need to require employers to maintain the building plumb during jacking operations. What is the current industry practice with regard to keeping the building plumb?

7. OSHA requests comments on the need to include requirements in the final rule that address employee access and egress during the erection of lift-slab buildings. OSHA requests information on how employees gain access to upper level slabs (1) to erect scaffolds; (2) to set wedges and make temporary connections; (3) to make permanent connections; and (4) to perform other activities (such as electrical, plumbing, etc.). OSHA also wishes to know what means of rapid escape from upper slabs are presently being used for emergency situations such as fire, explosion or structural failure.

8. When are stairways or ladders installed to provide access and egress to upper floor levels?

9. OSHA frequently uses the term "jacks" in the proposed requirements. Since other lifting units (not always referred to as jacks) can be used in lift-slab operations, is there a need for OSHA to substitute the term "lifting units" for the term "jacks", or is the term "jacks" commonly understood to include such other equipment?

10. OSHA is considering promulgating a specific requirement that jacks (or possibly "lifting units") be secured to building columns so that they will not become dislodged or dislocated. What is the current industry practice with regard to securing jacks to columns?

11. In § 1926.705(k), OSHA is proposing to continue the existing requirement that allows only employees essential to jacking operations to be in the building during jacking operations. OSHA has two concerns on which it seeks comment with regard to this provision.

(a) OSHA is aware that controversy exists with regard to the existing and proposed provisions in that some individuals believe the evacuation of nonessential employees during jacking operations is not necessary. OSHA, of course, will consider all submitted suggestions for alternative solutions to the prohibition of nonessential employees in the building during jacking operations. In particular, OSHA would like to evaluate any engineering controls or solutions that may be used or are available to protect employees. For example, would the use of shoring systems to support the floors be sufficient protection to allow nonessential employees to work under slabs in the event of a collapse? Such suggested solutions must be discussed in detail and demonstrate how the solution offers employee protection equivalent to keeping nonessential workers out of the building during jacking operations.

(b) OSHA is considering identifying, by job function, employees who would be considered the "essential" employees. OSHA requests comment on which job functions employers consider essential to jacking operations and how far away from the building should nonessential employees be during jacking operations.

12. Is there a need to revise other regulations in the Construction Safety and Health Standards to prohibit workers from being in buildings while precast members are being positioned and secured, or while cast-in-place concrete is being cured?

13. The National Bureau of Standards has recommended to OSHA that fracture toughness values should be specified for rods used in lift slab construction. NBS pointed out that fracture toughness values are presently specified for steels used in bridges, pressure vessels, ship structures and other transportation applications (Ex. 35–4). OSHA solicits comment on whether it should specify a particular value for the rods and, if so, what should that value be and why?

14. OSHA is proposing in § 1926.705(m) that all welding of

temporary and permanent connections be performed by a certified welder. As stated above, OSHA believes that it is the current practice of lift-slab construction firms to hire only certified welders for critical welding tasks. However, OSHA solicits information on whether or not there is a need to define what constitutes a "certified welder." OSHA believes this may be necessary in order to assure that welders are indeed qualified to perform critical welds on the structural members. As an example, should the provision require connections to be welded by a person who possesses a valid certification granted by the State or local licensing board? Or, should certification by *any* authority be acceptable? How many organizations certify welders, particularly for structural welding operations? Are welders provided with certification cards that can be displayed to employers or others in authority?

15. The NBS in their report on the L'Ambiance Plaza investigation concludes that excessive deformations occurred in the lifting angle of the shearhead which was followed by one of the jack rods in the lifting assembly slipping off the lifting angle, initiating a chain reaction. (Ex. 34, p. v). Should OSHA require employers to institute measures (such as the use of locking nut caps, wedges or boards) to insure that the rods and nuts cannot slip out of position? Are such methods in use now? If so, please describe them.

16. To assist OSHA in gathering information related to the cost of the proposed lift-slab requirements, the following questions are asked:

a. How many companies are involved in lift-slab construction? What percentage of their revenues are derived from lift-slab construction?

b. What is the number of construction projects built annually using the lift-slab technology and what is the annual square footage of lift-slab projects?

c. What is the average value of these projects?

d. What is the current industry practice regarding keeping workers out from under slabs while lifting is occurring? If workers were not allowed in the building while slabs were being lifted, how would this affect the economics of using lift-slab? Would it be possible to schedule work such that productivity is not affected? Are there any additional economic factors that would make the lift-slab method more attractive compared to cast-in-place construction even though workers were not allowed in the building during the lifting operation?

e. How long (in hours, days, or weeks) does it take to lift a slab or groups of slabs from their casting location to their parked position? How long does it take to lift from the temporary position to the final or permanent position?

f. Once lifting starts, is there any reason that lifting would be stopped, with the load suspended on the jacks, prior to the slabs reaching their temporary or permanent positions?

g. Are permanent connections ever made as soon as floors are lifted into place, or does this always occur at a later stage in the construction process? If later, how much later?

IV. Preliminary Regulatory Impact, Regulatory Flexibility and Environmental Impact Assessments

Introduction

The Occupational Safety and Health Administration (OSHA) has prepared this Preliminary Regulatory Impact Assessment (PRIA) in compliance with Executive Order 12291 and the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Stat. 1164 [5 U.S.C. 60 *et seq.*]) OSHA has made a preliminary determination that the proposed revisions to the lift-slab provisions of the Concrete and Masonry Standard will not constitute a "major rule" as its net effect will be less than $100 million. In addition, it will not cause major increases in consumer prices or have a significant adverse effect on competition, employment, investment, productivity, innovation or on international trade. OSHA has also determined that the proposed revisions are technologically and economically feasible, and that the potential environmental impacts of the proposed requirements would not be significant.

Industry Profile

The lift-slab construction technique has been used in over 50 countries since its development in 1948 (Ex. 36–2, p. 169). The total worldwide volume constructed using this method is estimated to exceed half a billion square feet. Other than the L'Ambiance Plaza collapse in Bridgeport, Connecticut, on April 23, 1987, OSHA is aware of no other fatal accidents involving this construction technique.

Lift-slab methods can be more economical than cast-in-place methods, particularly for buildings where the framing is similar on all floors. Because the floor and roof slabs are all cast at ground level and jacked into position, the lift-slab technique eliminates the need for 90 percent of the formwork used in cast-in-place methods. Reducing the highly labor-intensive erection of formwork reduces costs and increases speed of construction (Ex. 36–14). As a result, the use of lift-slab can be a cost-effective alternative to cast-in-place methods, particularly in geographical areas having high labor costs.

Texstar Construction Corporation (Texstar) is the company involved in the greatest volume of lift-slab construction, having completed 800 buildings on 600 projects over the course of the 37 years that they have used this technology. These buildings have accounted for approximately 62 million square feet of lifted slab. Most recently, Texstar has been lifting about 2 million square feet of lift-slab per year on about 20 buildings in 10–15 projects. Of these projects, 40 percent are residential (apartments, condominiums, hotels, etc.), 50 percent are office buildings, 5 percent are parking structures and 5 percent are specialty buildings (Ex. 36–7).

Lift Plate International, a Florida construction company, has erected a number of 2- and 3-story buildings and is the only other company known to OSHA to do the actual lifting. Lift Plate International lifted about 600,000 square feet on about 10 buildings during the last year (Ex. 36–8). The two systems currently used by these respective companies vary primarily in the manner in which the columns are erected. This difference in turn determines the maximum height of the building. Lift-Plate International erects columns that are the full height of the building before lifting slabs; overall building height is limited to 10 stories. Texstar uses a series of three-story column extensions allowing for tall buildings (Ex. 36–17).

The lift-slab method of construction constitutes only a small fraction of all construction projects in the United States. Although published estimates of the amount have ranged from between 3 and 10 percent of all commercial projects (Exs. 36–3 and 4), these estimates appear too high. Based on data indicating the amount of floor space constructed by Texstar and Lift-Plate International, the lift-slab technique accounts for less than one percent of the 1,004 million square feet of commercial and industrial space constructed during 1987 (Ex. 36–11). (Although for certain building types and in certain regions the lift-slab method enjoys a cost advantage over other methods, industry representatives explain its relatively small market share primarily by lack of familiarity on the part of owners, designers and contractors).

This projection is consistent with the view of Clifford Freyermuth, the executive director of the Post Tensioning Institute who reports that the

lift-slab method of construction has declined in popularity over the years, accounting for no more than one percent of all construction (Exs. 36–10 and 12). He attributed this decline to the fact that, at one time, lift-slab held a cost advantage due to the relatively costly nature of formwork; but in the intervening years, innovative formwork systems such as flying forms or whole floor systems, have declined in cost and become more widely used.

Costs of Compliance

The proposed revisions to that portion of the concrete and masonry construction standard addressing lift-slab operations are for the most part taken directly from ANSI A10.9 (1983), and are essentially the same as the ANSI A10.9 (1970) provisions referenced in the original standard. The cost of these provisions was a part of the costs calculated for the ANSI referenced standards in the Concrete and Masonry RIA. The proposal prohibits all workers but those essential to the jacking operation from being in the building during "jacking operations." This is consistent with OSHA's interpretation of the recent ANSI clarification that "non-essential employees shall not work under or on top of the load that is not temporarily or permanently secured to columns" and with OSHA's current enforcement guideline for this provision of the standard.

This interpretation, however, is not universally accepted. Industry representatives and at least one federal judge (Ex. 36–18) have interpreted this provision to mean that non-essential workers had to be out from under only the immediate floor or floors being lifted. This distinction may make a difference in the economics of a project, particularly for buildings of five floors or more. Since lifting operations can occur over a period of several weeks, depending upon factors such as building size, weather, and other activities, excluding other craftsmen during this time could result in considerable delay to the construction schedule.

Officials of Texstar have estimated that imposition of this requirement alone would result in the loss of 75 percent of their business (95 percent of which is related to lift-slab activities) as it would no longer be cost-effective to use the lift-slab technique for buildings of more than four floors in height. It appears likely therefore that this provision would drastically reduce their volume of work and could conceivably force the company out of business. Texstar indicated that they have already cut their staff back from 24 to 7 employees as a result of a drop-off in business (Ex. 36–7). In addition, they have filed for bankruptcy under Chapter 11 as a result of the OSHA fines resulting from the L'Ambiance Plaza collapse and potential liability claims (Ex. 36–16).

Looked at from another perspective, lift-slab's cost advantage, although variable by region and size of building, averages about $2 per square foot (Ex. 36–7). If 75 percent of Texstar's current volume of business shifts to other construction methods in the future, this would translate into an increased annual cost of $3 million (2 million sq. ft. x .75 x $2) to building owners. Contrary to the potential problem faced by Texstar, Lift-Plate International has indicated that this requirement would have absolutely no impact on their business or their ability to compete for jobs. This firm primarily builds structures of 3 and 4 stories, where they lift for a week to a week-and-a-half and finish before the other trades enter.

A second requirement in the proposal addresses the loading of jacking equipment. It is clarified to ensure that the 2.5 safety factor applies to *all* jacking equipment, including columns, footings, and shearheads in addition to the actual jacks, lifting angles, lifting nuts, etc. Apparently this requirement had not been interpreted by everyone to include the columns, footings and shearheads. Both companies currently doing lifting have indicated that their components now meet the 2.5 safety factor (Exs. 36–7 and 8). Although columns were not always fabricated with a 2.5 safety factor, compliance will not be a substantial burden (Exs. 36–7, 8, and 9). The cost differential of moving from the previous safety factors to 2.5 varied from 2 percent to 10 percent, depending on the building. The relative cost impact of the 2.5 safety factor is actually greater for low rise than for high rise buildings where the columns constitute a larger part of the cost of the structure.

A third requirement in the proposal specifies that all welding on temporary and permanent connections be performed by a certified welder. Both companies report that the welds are so critical to the overall integrity of the structure that well-qualified welders are essential. Thus, both lifting companies have indicated that they currently use only "welders with papers"or "certified welders" and that this requirement would not affect them in any way (Exs. 36–7 and 8). This provision therefore has been determined to be current industry practice and no costs of compliance are anticipated.

The remaining provisions in the proposal are existing requirements in the current referenced ANSI A10.9 (1970) standard and there has been no indication from either industry or OSHA compliance staff that these requirements are other than current industry practice.

Benefits

The uncertainty surrounding the risks associated with the lift-slab method makes it difficult to estimate the benefits that would be attributable to changes in the standard. It can certainly be postulated that the deaths of many of the 28 workers killed in the L'Ambiance Plaza collapse would have been prevented if non-essential workers had been barred from the building during jacking operations. This incident, however, is the only known fatal lift-slab-related accident to occur over the 39 years the method has been in use. Thus, the determination of the likelihood of future incidents and the number of potential fatalities that would be avoided as a result of this standard is problematical.

Some of the hazards that workers are exposed to while performing lift-slab operations are the same as those found in conventional cast-in-place techniques. Texstar has indicated that lift-slab is a safe method as reflected by their lost workday injury rate of 8.2 days lost per 10,000 days worked and their workers' compensation experience modifier of 0.8 for the period from 1976 to 1987. This does not include the injuries and fatalities of the L'Ambiance Plaza collapse at Bridgeport. (Ex. 36–2). This translates into an annual rate of 20.5 lost workdays per 100 full-time workers as compared to a rate of 122.5 lost workdays per 100 full-time workers for all of the construction industry during this same time period and 124.3 for SIC 1770—Concrete Work (Ex. 36–5). Moreover, Lift-Plate International has indicated that they have had no recordable injuries related to lift-slab activities (Ex. 36–8).

These company records, however, do not represent the total risk picture for lift-slab operations because they do not account for injuries or deaths to employees of other firms. For example, Texstar is but one subcontractor on a jobsite and other subcontractors' employees may also be exposed to risk. Of the 28 workers killed in the Bridgeport collapse, there were 7 carpenters, 7 ironworkers, 7 laborers, 3 plumbers, 1 electrician, 1 operating engineer, 1 bricklayer and 1 supervisor (Ex. 36–19). Texstar had only 17 workers on site and of these, 8 were killed and 2 were injured (Ex. 36–20). This catastrophe accounts for 24% of the fatalities (28/117) that resulted from the

5 major concrete building collapses during the last 15 years. (See the Final Regulatory Impact Assessment of the Standard on Concrete and Masonry Construction, p. IV-5, Ex. 13A of Docket S-301A).

Nevertheless, industry commenters vigorously contend that restricting the availability of lift-slab methods would serve to increase the level of work-related risk by forcing workers who now work on lift-slab jobs at ground level to be exposed to the more severe hazards associated with erecting formwork systems at heights (Exs. 36-7, 8, 9, and 15). For example, in January 1988, two workers were killed and two were seriously injured when the topping lift pulled free of the boom on a mobile crane carrying for work lumber to the second level of a building under construction (Ex. 36-13). The lift-slab method had reportedly been considered for this project but was rejected due to safety concerns following the Bridgeport failure.

In an ongoing analysis of structural failures, John Loss at the University of Maryland's Architectural and Engineering Performance Information Center has looked at many structural failures covering the period 1965 to the present and has found none that involved the lift-slab method of construction (Ex. 36-6). He states that "all construction is unsafe" and that "during construction, the buildings are in their most critically unstable mode."

In sum, the available data indicate that where lift-slab operations can comply with the standard while remaining cost effective, the proposed provisions will enhance worker safety by significantly reducing worker exposure to potentially catastrophic incidents. Where the standard causes life-slab methods to be discontinued in favor of other construction methods, such as cast-in-place methods, the effect on worker risk levels remains uncertain, and may either decrease or increase. Clearly, OSHA's mission is to protect workers by reducing the risk. OSHA requests additional public comment on this issue.

Other Economic Effects

Environmental Impacts

The proposed revisions to the lift-slab requirements have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4231 *et seq.*), the Regulations of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and DOL's NEPA Procedures (29 CFR Part 11). As a result of this review, the Assistant Secretary for OSHA has determined that the proposed revision would have no significant environmental impact.

Although safety standards rarely influence air, water, or soil quality, plant or animal life, or the use of land or other aspects of the environment, it is appropriate to examine whether the proposed lift-slab requirements will alter the environment external to the workplace. Examination of the proposed revisions show that they consist primarily of clarifications in work practices and procedures and therefore will have no significant environmental effects.

Regulatory Flexibility Certification

Although the firms that will be most affected by this revised regulation are best described as small businesses, only two firms will be impacted. Therefore, OSHA has determined that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

References to Section IV—Preliminary Regulatory Impact, Regulatory Flexibility and Environmental Impact Assessments—Exhibit 36

1. Frank A. Randall, Jr., "New Developments in Lift-Slab Construction" *Concrete Construction*, Feb. 1986, p. 117.
2. Construction Advisory Committee Meeting, 3/30/88 transcript p. 144 testimony of Mr. Russillo, Vice President of Texstar.
3. "All Construction is Unsafe," Billings Gazette, 4/2/87.
4. Occupational Safety and Health Reporter, the Bureau of National Affairs, 8/5/87, pp. 407-408.
5. U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Injuries and Illnesses by Industry, 1986*, unpublished data.
6. "Collecting Data on Building Disasters", *newspaper article.*
7. Personal communication, Chris Geckler, Executive Vice President and Michael Russillo, Engineer, Texstar Construction Corporation, with Marilyn Schuster, OSHA, Washington, DC, May 5 and 10, 1988.
8. Personal communication, Peter Vanderklaauw, President, Lift Plate International, with Marilyn Schuster, OSHA, Washington, DC, May 9, 1988.
9. Personal communication, William Rogers, President, Rogers International Corporation, with Marilyn Schuster, OSHA, Washington, DC, May 6, 1988.
10. Personal communication, Clifford Freyermuth, Executive Director, Post Tensioning Institute, with Barbara Bielaski, OSHA, Washington, DC, May 9, 1988.
11. U.S. Congress, Joint Economic Committee, *Economic Indicators*, Government Printing Office, Washington, DC, April 1988.
12. "Lift-Slab Method No More Risky Than Other Techniques," Bridgeport Telegraph, April 24, 1987.
13. "Topping Lift Blamed in Mishap," *Engineering News Record*, January 28, 1988.
14. U.S. Department of Commerce, National Bureau of Standards, *Investigation of L'Ambiance Plaza Building Collapse in Bridgeport, Connecticut*, NBSIR 87-3640, Gaithersburg, MD, September 1987.
15. Written correspondence from Marshall Long, President, International Lift-Slab Corporation to Ralph Geckler, President, Texstar Construction Corporation, December 10, 1987.
16. "Lift-Slab Builder Bankrupt", *Engineering News Record*, April 7, 1988, p. 17.
17. "Recent Construction Disaster Raises Questions About Practices," *Multi-Housing News*, N.Y., NY, July 1987, pp. 37 and 38.
18. William Brock vs. S & S Realty Trust, U.S. District Court, District of Massachusetts, CA 87-2175-WD, September 2, 1987.
19. "Reagan Safety Policy Draws Council's Fire", *AFL-CIO News*, May 9, 1987.
20. OSHA press release package for 10/22/87 News Conference.

V. OMB Approval Under the Paperwork Reduction Act

There are no collections of information proposed in this section. Therefore, approval by OMB under the Paperwork Reduction Act is not necessary.

VI. Public Participation

Interested persons are invited to submit written data, views, and arguments with respect to this proposal and all issues involved therein. The comments must be postmarked on or before November 14, 1988, and submitted in quadruplicate to the Docket Officer, Docket No. S-301B, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3670, Washington, DC 20210. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

Additionally, under section 6(b)(3) of the OSHA Act (29 U.S.C. 657), section 107 of the Construction Safety Act (41 U.S.C. 333) and 29 CFR 1911.11, interested persons may file objections to the proposal and request an informal public hearing. The objections and hearing request should be submitted in quadruplicate to the Docket Officer at the address above and must comply with the following conditions:

1. The objections must include the name and address of the objector;

2. The objections must be postmarked on or before November 14, 1988 and submitted to the Docket Office at the aforementioned address;

3. The objections must specify with particularity the provision(s) of the proposed rule to which objection is taken, and must state the grounds therefor;

5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

If objection and request for a hearing are timely filed, a hearing will be scheduled pursuant to section 6(b)(3) of the Occupational Safety and Health Act of 1970.

OSHA recognizes that there may be interested persons who, through their knowledge of safety or their experience in the operations involved, would wish to endorse or support certain provisions in the standard. OSHA welcomes such supportive comments, including any pertinent accident data or cost information which may be available, in order that the record of this rulemaking will present a balanced picture of the public response on the issues involved.

VII. State Plan Requirements

The 25 States and territories with their own OSHA-approved occupational safety and health plans must revise their existing standards within six months of the publication date of the final standard or show OSHA why there is no need for action, e.g., because an existing State standard covering this area is already "at least as effective" as the revised Federal standard. These States and territories are: Alaska, Arizona, California, Connecticut, (State and local government workers only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, (State and local government workers only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington and Wyoming.

VIII. Federalism

The proposed standard has been reviewed in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987) regarding Federalism. This Order requires that agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of State law only if there is a clear Congressional intent for the agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act), expresses Congress' clear intent to preempt State laws relating to issues with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act a State can avoid preemption only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such Plan-States must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards.

The Federally proposed lift-slab standard is drafted so that construction workers in every State would be protected by general, performance-oriented standards. To the extent that there are State or regional peculiarities that could alter construction methods, States with occupational safety and health plans approved under section 18 of the OSH Act would be able to develop their own State standards to deal with any special problems. Moreover, the performance nature of this proposed standard, of and by itself, allows for flexibility by States and contractors to provide as much safety as possible using varying methods consonant with conditions in each State.

In short, there is a clear national problem related to occupational safety and health of construction workers. While the individual States, if all acted, might be able collectively to deal with the safety problems involved, most have not elected to do so in the seventeen years since the enactment of the OSH Act. Those States which have elected to participate under section 18 of the OSH Act would not be preempted by this proposed regulation and would be able to deal with special, local conditions within the framework provided by this performance-oriented standard while ensuring that their standards are at least as effective as the Federal standard. State comments are invited on this proposal and will be fully considered prior to promulgation of a final rule.

List of Subjects in 29 CFR Part 1926

Construction safety, Concrete construction, Lift-slab construction, Occupational safety and health, Precast concrete.

IX. Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 653, 655, and 657); section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96, 40 U.S.C. 333); Secretary of Labor's Order No. 9-83 (48 FR 35736); and 29 CFR Part 1911, it is proposed to amend Part 1926 of Title 29 of the Code of Federal Regulations as set forth below.

Signed at Washington, DC, this 9th day of September, 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

PART 1926—[AMENDED]

1. The authority citation for Part 1926 would continue to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736), as applicable; and 29 CFR Part 1911.

§ 1926.305 [Amended]

2. By proposing to amend § 1926.305 to remove and reserve paragraph (b).

3. By proposing to amend paragraph (b) of § 1926.700 to add definitions (b) (9) and (10) for two terms as follows.

Subpart Q—Concrete and Masonry Construction

§ 1926.700 Scope, application and definitions applicable to this Subpart.

(a) * * *

(b) *Definitions applicable to this subpart.*

* * * * *

(9) "Jacking operation" means the task of lifting vertically, a slab (or group of slabs) from one location to another (e.g., from the casting location to a temporary (parked) location, or from a temporary location to another temporary location, or to its final location in the structure), during the construction of a structure where the lift-slab process is being used.

(10) "Qualified designer" means a person who, by possession of a degree, certificate, or professional standing, has demonstrated ability in design in the subject under regulation.

* * * * *

4. By proposing to revise § 1926.705 to read as follows:

§ 1926.705 Lift-slab operations.

(a) Lift-slab operations shall be designed and planned by a qualified designer—qualified in lift-slab operations. Such plans and designs shall be implemented by the employer and

shall include detailed instructions and sketches indicating the prescribed method of erection.

(b) Jacks shall be marked to indicate the rated capacity established by the manufacturer.

(c) Jacks shall not be loaded beyond the rated capacity established by the manufacturer.

(d) Jacking equipment shall not be overloaded and the threaded rods and other members (such as, but not limited to the following: jacks and other lifting units, lifting angles, lifting nuts, hook-up collars, T-caps, shearheads, columns, and footings) that transmit loads to the jacks shall be capable of supporting at least two and one-half times the load to be applied.

(e) Jacks shall be designed and installed so that they will neither lift nor continue to lift when they are loaded in excess of their rated capacity.

(f) Jacks shall have a safety device installed which will cause the jacks to support the load in any position in the event any jack malfunctions or loses its lifting ability.

(g) Jacking operations shall be synchronized in such a manner to ensure even and uniform lifting of the slab. During lifting, all points of the slab support shall be kept within ½ inch of that needed to maintain the slab in a level position.

(h) If leveling is automatically controlled, a device shall be installed that will stop the operation when the ½ inch tolerance set forth in paragraph (g) is exceeded or where there is a malfunction in the jacking system.

(i) If leveling is maintained by manual controls, such controls shall be located in a central location and attended by a competent person while lifting is in progress.

(j) The maximum number of manually controlled jacks on one slab shall be limited to a number that will permit the operator to maintain the slab level within specified tolerances.

(k) No employees (except those essential to the jacking operation) shall be permitted in the building while any jacking operation is taking place. For the purpose of this provision, a jacking operation begins when a slab or group of slabs is lifted and ends when such slabs are secured (with either temporary connections or permanent connections).

(l) When making temporary connections to support slabs, wedges shall be secured by tack welding or an equivalent method of securing before the load is released from the lifting unit.

(m) All welding on temporary and permanent connections shall be performed by a certified welder, familiar with the welding requirements specified in the lift-slab plan and specifications.

(n) Load transfer from jacks to building columns shall not be executed until the welds on the column shear plates are cooled to air temperature.

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Thursday
September 15, 1988

Part VI

Department of Agriculture

Commodity Credit Corporation

7 CFR Part 1446

Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops; Interim Rule

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1446

[Amdt. 3]

Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim Rule.

SUMMARY: This interim rule revises regulations for the 1986–90 crops of peanuts codified in 7 CFR Part 1446. This rule amends those regulations as they affect the 1988 through 1990 crops. This rule principally:

1. Incorporates by reference, the provisions of 7 CFR Part 1498 concerning the eligibility of foreign persons for payment and loans for the 1989 and 1990 crops of peanuts and other commodities;
2. Changes the "Segregation 1" definition to exclude from that segregation peanuts with more than 14.49 percent loose shelled kernels (LSK's), thereby also excluding such peanuts from support as "quota" peanuts;
3. Raises to 10.49 percent the maximum acceptable moisture level for those peanuts for which the level previously had been 10.00 percent;
4. Raises the "shrink" allowance from 0.5 percent to 2.0 percent for handlers choosing nonphysical supervision;
5. Extends the deadline by which handlers must file their initial letter of credit to assure compliance with contract additional peanut disposition requirements from July 31 of the year in which the peanuts were produced to August 10 (or the next business day if August 10 is not a business day);
6. Adjusts the price support pool offset provisions to provide for prorated offsets against eligible pools;
7. Clarifies that peanut handlers under physical supervision who do not contract for additional peanuts with producers but who acquire, from other handlers, contract additional peanuts for further processing must present a suitable letter of credit; and
8. Adjusts the provisions regarding nonphysical supervision handler credits for sound mature kernels (SMK) and sound split (SS) kernels.

Other related and minor adjustments have been made.

DATES: This interim rule is effective September 15, 1988; comments must be received on or before November 14, 1988.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David L. Kincannon, Peanut Operations Branch, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, telephone 202–382–0152.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures, Executive Order 12291, and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this rule 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, industries, Federal, State or local government agencies, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The information collection requirements contained in this regulation and information requests authorized by this regulation have been reviewed and approved by the Office of Management and Budget (OMB) under OMB Number 0560–0024.

The title and number of the Federal assistance program to which this rule applies are: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and County Officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This interim rule amends the 1986–90 crop provisions of 7 CFR Part 1446 codified at 7 CFR 1446.70 *et. seq.* The 1988 crop marketing year runs August 1, 1988, through July 31, 1989. So that the revisions adopted in this interim rule may allow for uniform 1988 crop marketing, to the extent practicable, it has been determined that this interim rule will be effective upon publication in the **Federal Register.**

1. *Foreign person eligibility for 1989 and 1990 crop price support.* Section 1001C of the Food Security Act of 1985 (the 1985 Act), as amended by section 1306 of the Agricultural Reconciliation Act of 1987, limits the eligibility of foreign persons for certain agricultural benefits with respect to the 1989 and 1990 crops. That limitation has been implemented in 7 CFR Part 1498. This interim rule revises § 1446.72 and § 1446.99 to incorporate and reference 7 CFR Part 1498. The limitations under section 1001C of the 1985 Act regarding foreign persons apply to, among other benefits, "price support loans" and "payments" made available under the Agricultural Act of 1949 (the 1949 Act). These restrictions thus apply to peanut price support loans and payments. The statutory authority for those benefits is Section 108B of the 1949 Act.

2. *LSK's and moisture.* Most peanut handlers are parties to the Marketing Agreement No. 146. That agreement is administered by the Peanut Administrative Committee (PAC). The PAC represents many segments of the industry. Recent PAC revisions prohibit handlers who are party to the Marketing Agreement from purchasing, from producers, peanuts with more than 14.49 percent LSK's unless the peanuts are to be processed without being stored in commingled storage with peanuts with less than 14.49 percent LSK's. In addition, previously, peanuts could not be accepted for purchase under the terms of the marketing agreement if the peanuts had more than 10.00 percent moisture. The acceptable moisture level for those peanuts has been raised to 10.49 percent.

Corresponding revisions of Part 1446 are made in this rule in §§ 1446.72 and 1446.98. As revised, these sections will provide that peanuts with more than 14.49 percent LSK's will not be eligible to be considered "Segregation 1" peanuts for quota price support loans. Only Segregation 1 peanuts are eligible for price support as quota peanuts. The revisions also concern moisture. Previously, some peanuts were not eligible for price support loans if the peanuts had more than 10.00 percent moisture. That level for those peanuts has been revised to 10.49 percent. These revisions will provide for uniform marketing conditions for privately-sold peanuts and for peanuts used as collateral for a price support loan. Also, these revisions avoid making the price

support loan inventory a repository for all peanuts with high LSK's. Peanuts with high LSK's may be more susceptible to mold and thus could degrade the quality of Segregation 1 peanuts stored with them. It is not feasible to secure separate storage for price-support loan peanuts with a high LSK content. This rule also modifies the "buyback" provisions for Segregation 2 and Segregation 3 peanuts. The amendment provides that the Executive Vice President may set standards governing the handling and use of such buybacks. This authority will permit the Executive Vice President to take such measures as are necessary to protect price support collateral peanuts from harm from damaged peanuts.

3. *Shrink.* Section 1446.138 of the regulations has allowed handlers choosing nonphysical supervision a "shrink" allowance of 0.5 percent. Recent PAC adjustments have made some smaller kernels ineligible for domestic edible use thus restricting these peanuts to crushing into oil and meal. Previously, handlers could recover those peanuts from peanuts acquired by the handler as contract additional peanuts. Those smaller value kernels could be used as domestic food peanuts and be replaced by lower valued quota peanuts thereby offsetting part of the lost value that the handler's contract additional peanuts might otherwise have incurred during storage. To take into account the change in PAC practice on this issue, this rule amends the regulations to permit the Executive Vice President, CCC, to allow a shrink allowance of 2.0 percent for the 1988 through 1990 crops for those handlers who abide by such restrictions as the Executive Vice President, CCC, may specify regarding the use of smaller kernels and other restrictions as are deemed needed. Handlers, to take advantage of the higher shrink allowance, will have to make such certifications of use as may be required by the Executive Vice President to insure that the higher shrink allowance is appropriate. Those handlers who do not abide by such restrictions will continue to be permitted a 0.5 percent allowance only for shrink.

4. *Letters of Credit.* Section 1446.106 requires that handlers of contract additional peanuts submit letters of credit to assure compliance by handlers with contract additional peanut disposition requirements. Previously that section required the handler's initial letter of credit to be filed by July 31 of the year in which the peanuts are produced. That date is the statutorily-set last date for submitting additional peanut contracts for the Secretary's approval. This rule moves the date for filing the initial letter of credit to August 10 of the year in which the contracted peanuts are produced or the next business day if August 10 is not a business day. The letter of credit amount depends on several factors. One of those factors is the amount of peanuts contracted for purchase by the handler. Some handlers have experienced difficulty in obtaining financing by July 31 since the total quantity of peanuts contracted may not be known. Moving the letter of credit submission date back will allow more time in future crop years for a handler to obtain financing. Also, moving the date will permit handlers to more accurately determine how large a letter of credit is needed.

In addition, to clarify the regulations and assure full compliance with contract additional peanut restrictions, § 1446.116 has been revised to explicitly provide that a letter of credit must be submitted by handlers who are processors of peanuts who do not directly contract with producers for peanuts and who choose physical supervision. The amount of the letter of credit required will be commensurate with the letter of credit amount due from a handler buying the same quantity of peanuts from a producer.

5. *Pool offsets.* Section 108B of the 1949 Act provides for recovering certain price support pool losses from other pools and for reducing producer proceeds for losses on "disaster transfers" made by the producer. Previously, § 1446.112 set priorities by pools for the offsets. To improve the administration of the offsets and assure more even distribution of the offsets, the priorities have been eliminated and the disaster transfer provisions have been revised.

6. *Accounting for contract additional peanuts.* Section 1446.140 of the regulations specifies the manner in which handlers subject to nonphysical supervision must account for peanuts. To assure greater uniformity and promote clarity, that section has been revised regarding the standards for credits for SMK and SS credits. The revisions specify that credits for No. 2 Virginia peanuts will only be allowed for peanuts that meet PAC standards. Previously, U.S. standards applied.

List of Subjects in 7 CFR Part 1446

Loan programs—Agriculture, Peanuts, Price support programs, Warehouse.

Interim Rule

Accordingly, 7 CFR Part 1446, Subpart—Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops, is amended with respect to the 1988–90 crops as follows:

PART 1446—[AMENDED]

1. The authority citation for the subpart is revised to read as follows:

Authority: 7 U.S.C. 1359, 1375, 1421 *et seq.*; 15 U.S.C. 714 *et. seq.*

2. Section 1446.72 is amended by: revising the first sentence of the introductory text; redesignating and revising paragraphs (ee)(1)(iii) and (ee)(1)(iv) as (ee)(1)(iv) and (ee)(1)(v) respectively; adding a new paragraph (ee)(1)(iii); redesignating paragraph (ee)(2)(iii) as (ee)(2)(iv); revising (ee)(2) concluding text; adding a new paragraph (ee)(2)(iii); revising paragraph (ee)(2)(iv); and revising paragraph (ee)(3), so that § 1446.72 shall read as follows:

§ 1446.72 Definitions.

The regulations of this subpart incorporate the definitions and provisions of Parts 718, 719, 729, 780, 1402, 1403, 1408, 1421, 1422 and 1498 of this title except where the context or subject matter or provisions of the regulations in this subpart otherwise requires. * * *

* * * * *

(ee) *Peanut segregations.* * * *

(1) * * *

(iii) Have not more than 14.49 percent LSK's;

(iv) Are free from any offensive odor; and

(v) Are free from visible Aspergillus flavus mold.

(2) * * *

(iii) Have more than 14.49 percent LSK's; or

(iv) Have an offensive odor.

However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure, as provided in § 1446.113(a) of this subpart, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes except that peanuts of this segregation may only be purchased as buybacks subject to the terms and conditions specified by the Executive Vice President, CCC.

(3) *Segregation 3* on the basis that they are farmers stock peanuts which have visible Aspergillus flavus mold. However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure as provided in § 1446.113(a) of this subpart, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes; however, peanuts of this segregation may only be purchased as buybacks subject to the terms and conditions specified by the Executive Vice President, CCC.

* * * * *

3. Section 1446.98 is amended by: revising paragraph (b)(2); adding paragraph (b)(5); revising paragraph (c)(1); revising the introductory text of paragraph (c)(2); and revising the

introductory text of paragraph (d), to read as follows:

§ 1446.98 Eligible peanuts.

* * * * *

(b) * * *

(2) Must contain not more than 10.49 percent moisture;

* * * * *

(5) Must contain not more that 14.49 percent LSK's.

(c) * * *

(1) If nonseed peanuts, must contain not more than 10.49 percent moisture;

(2) If seed peanuts, the same maximum moisture level that applies to nonseed peanuts shall apply; except that, such peanuts may have a moisture level of up to 11.49 percent moisture for nonstacked Virginia-type peanuts, provided that in either case: * * *

(d) *Additional support for peanuts with excess moisture, foreign material, or LSK's.* Peanuts which are graded as Segregation 2 or 3 and which, because they contain more than 10.49 percent moisture, and/or 10 percent foreign material, and/or 14.49 percent LSK's, would otherwise not be considered acceptable for loans under the provisions of (b) and (c) of this section shall nonetheless be considered eligible for loans, provided that all other conditions of this section are met, and that:

* * * * *

4. Section 1446.99 is amended by adding a new sentence at the end of paragraph (a), including new paragraphs (a) (1) and (2), to read as follows:

§ 1446.99 Eligible producer.

(a) * * * No person shall be eligible for a price support loan and related benefits under this part to the extent that the person is ineligible for such loans or benefits under:

(1) The provisions of 7 CFR Part 1498 relating to the eligibility of foreign persons for such loans or benefits with respect to the 1989 and 1990 crops of peanuts; or

(2) any other provision of law.

* * * * *

5. Section 1446.102 is amended by revising paragraphs (b), (c), (d) and (e) to read as follows:

§ 1446.102 Distribution of net gains.

* * * * *

(b) *Pool offsets within marketing areas.* Distribution of net gains in any additional pool other than those for Valencia peanuts produced in New Mexico shall first be reduced to the extent of any loss by CCC on the corresponding pool for Segregation 1 quota peanuts. For purposes of this paragraph, offsets for losses on quota peanuts shall be prorated from each of the pools for additional peanuts which have net gains.

(c) *Offsets for certain pool transfers.* Proceeds due any producer from any profit pool shall be reduced further to the extent of any loss that is incurred with respect to peanuts such producer has transferred from any additional loan pool to a quota loan for pricing purposes pursuant to the provisions of § 1446.103 of this subpart.

(d) *Pool offsets between marketing areas.* Proceeds due any producer after reductions made under paragraphs (b) and (c) of this section shall be reduced further to the extent of any losses in a pool for Segregation 1 quota peanuts in any other marketing area; except that, gains from pools for Valencia bright hull and Valencia dark hull peanuts produced in New Mexico shall not be used to offset losses in any pools in other areas.

(e) *Priority of offsets between areas.* Insofar as practicable,

(1) Losses offset in paragraph (d) of this section shall be recovered from the gains in other area pools for additional peanuts; except that, if the total losses are less than the total gains, the offset shall be prorated between those pools for Segregation 1, 2, and 3 additional peanuts which have gains;

(2) Any losses remaining after satisfying offsets under paragraph (e)(1) of this section shall be recovered from any gains in other area pools for Segregation 1 quota peanuts; except that, if the remaining losses are less than the total gains in pools for Segregation 1 quota peanuts, the offset shall be prorated between those area pools for Segregation 1 quota pools which have gains.

6. Section 1446.106 is amended by revising the third sentence of paragraph (a) to read as follows:

§ 1446.106 Letter of credit.

(a) * * * Such letter of credit shall be issued in a form and by a bank which is acceptable to CCC and shall be submitted to the relevant association not later than August 10 (or the next business day if August 10 is not a business day) following the final date for submitting contracts before contracts between the handler and producer will be approved and before producers will be issued marketing cards for contract additional peanuts. * * *

7. Section 1446.116 is amended by adding a new paragraph (d) to read as follows:

§ 1446.116 Processing additional peanuts into products.

* * * * *

(d) *Physical supervision.* The processor may choose physical supervision in lieu of nonphysical supervision. If physical supervision is chosen, such supervision shall be conducted in accordance with instructions of the Executive Vice President, CCC, and the processor shall be required to present a letter of credit as prescribed by the Executive Vice President, CCC, which shall, to the extent practicable, be the same amount as the letter of credit that would be required for an equal quantity of peanuts under § 1446.106 for a handler who has entered into contracts for the purchase of additional peanuts and has chosen physical supervision

8. Section 1446.138 is revised to read as follows:

§ 1446.138 Storage requirements under nonphysical supervision.

For handlers operating under nonphysical supervision, contract additional peanuts placed in commingled storage must be accounted for on a TKC basis less a one time adjustment for shrinkage for each crop and for all peanut types equal to 0.5 percent of the total kernel content of the poundage obtained as contract additional peanuts; except that, for the 1988 through 1990 crops, the Executive Vice President, CCC, may, as he deems appropriate and practicable in his discretion, allow for a shrink allowance of 2.0 percent of such kernel content for handlers operating under nonphysical supervision who comply with such additional restrictions on use as may be specified by the Executive Vice President, CCC, to take into account for common industry practices. In such cases, the handlers shall be required to supply such additional certifications regarding use of the peanuts as the Executive Vice President deems needed to substantiate the higher shrink allowance.

9. Section 1446.140 is amended by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 1446.140 Disposition credits under nonphysical supervision.

(a) * * *

(2) The total pounds, excluding splits as determined in paragraph (b)(2) of this section, in a lot of peanuts which meet PAC standards for

(i) Whole kernel peanuts with splits, or

(ii) No. 2 Virginia peanuts.

(b) * * *

(2) The pounds of splits in lot of peanuts which meets PAC standards for

(i) Whole kernel with splits, or

(ii) No. 2 Virginia.

* * * * *

Signed at Washington, DC, on September 13, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

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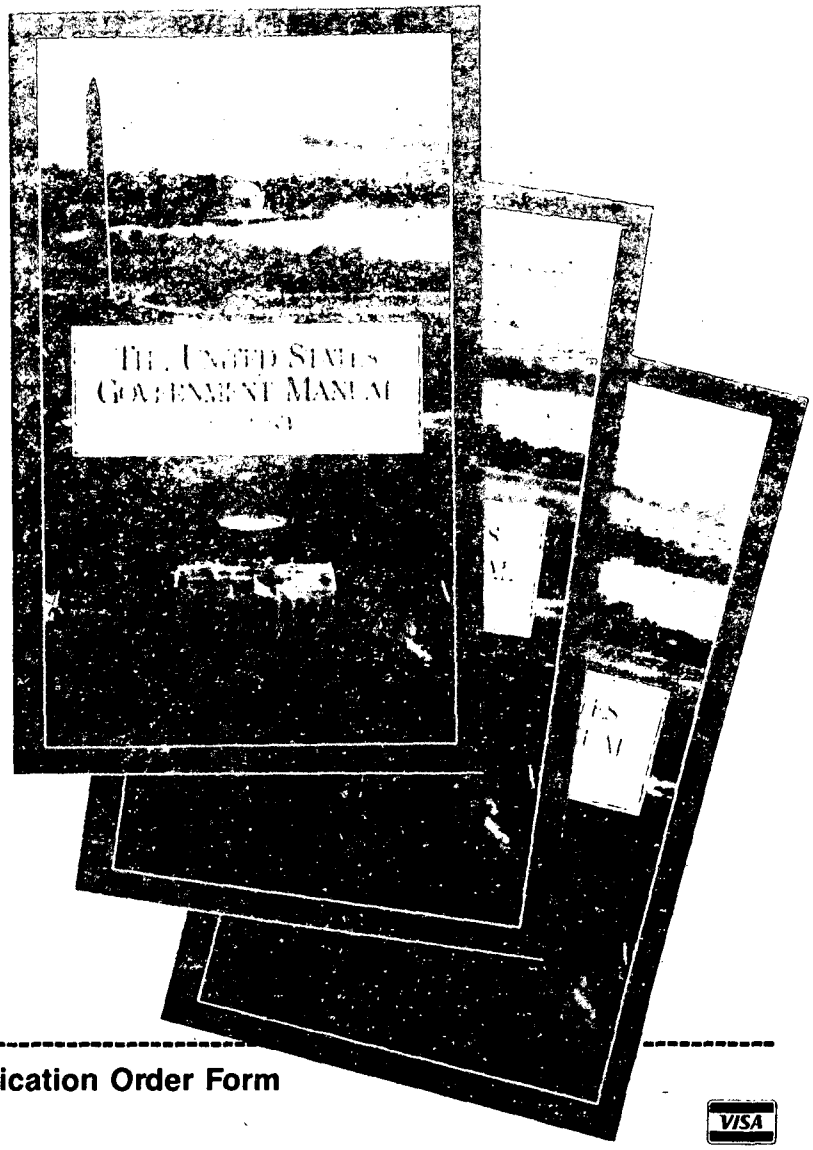

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