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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, and 873

Basic Life Insurance, Standard Optional Life Insurance, Additional Optional Life Insurance, and Family Optional Life Insurance

AGENCY: Office of Personal Management.

ACTION: Final rulemaking.

SUMMARY: These regulations liberalize the provisions for cancellation of waivers of Federal Employees' Group Life Insurance (FEGLI) coverage for certain employees who return to Federal service. They provide that a separate employee's waiver of FEGLI is automatically cancelled upon his or her reinstatement if at least 180 days have elapsed since the date of his or her separation. They also provide that an employee who returns to Federal service after April 1, 1981, after a break in service of at least 180 days, be allowed to enroll in the FEGLI Program within 90 days of the date of publication of these final regulations.

EFFECTIVE DATE: December 8, 1983.

FOR FURTHER INFORMATION CONTACT: Mary Angel, (202) 632–4634.

SUPPLEMENTARY INFORMATION: During the comment period for the proposed regulations, we received responses from five agencies, two labor organizations, and one individual. Two agencies supported the proposed regulations without reservation; three agencies suggested amendments to the proposed regulations; one employee organization reserved comment and the other suggested an amendment to the proposed regulations; and the individual opposed the proposed regulations.

Two of the agencies requested an extension of the 31-day time period during which employees who have returned to Federal service since April 1, 1981, after being separated for at least 180 days, may elect FEGLI coverage. We have complied with this request and extended the time period to 90 days.

One of the agencies also commented that § 870.204(f), Title 5, Code of Federal Regulations, should be amended to contain an opportunity for belated enrollment when, for cause beyond his or her control, an employee has failed to elect basic life insurance coverage within the required time period. This amendment is not necessary as that section provides that basic life insurance automatically attaches on the date an eligible employee enters on duty.

Two agencies also proposed that the regulations be amended to permit an employee to cancel a waiver of life insurance coverage if he or she could furnish satisfactory evidence of insurability and if at lease one year has elapsed since the effective date of his or her waiver. (Our regulations prohibit cancellation of waivers by employees who are over age 50.) Life insurance premiums are now based on the assumption that employees participate in the FEGLI Program for their full Federal careers. If Federal employees were allowed to cancel waivers of life insurance coverage at any age, it is likely that a number of Federal employees would do so only when they were within five years of their anticipated retirement date, so that they could continue their life insurance coverage as retirees. For many employees, waivers would be cancelled at age 50 or over. As the same FEGLI benefits would be payable, even though these employees would be paying life insurance premiums for less than full Federal careers, the impact of the proposed change on the financing of the FEGLI Program could be substantial. Therefore, we have decided not to implement the suggested change.

One labor organization suggested that the regulations be amended to require that agencies identify individual employees who might be affected by this regulation. We have not amended the final regulations to make that suggestion a requirement because we feel that, especially for large agencies, such a requirement would be an unjustifiable administrative burden. We have, however, contacted agencies to ask that they inform all employees of this change in the regulations so that eligible employees may elect coverage within the time period provided. In addition, we have included the same request in the last paragraph of this Supplementary Information.

The individual who commented stated that the proposed change would grant to "high risk" employees who left and later returned to Federal service preferential treatment that would not be granted to other employees who did not have a break in service. We do not believe that many Federal employees will voluntarily interrupt their Federal careers for six-month periods simply to become eligible for FEGLI coverage that they had previously waived. We believe "high risk" employees who would be more likely to need disability, health, and death benefits protection would be even less likely than other Federal employees to interrupt their careers to become eligible for life insurance benefits. For that reason, we believe that this change will have only a minimal impact on the FEGLI Fund. We also note that this change was not intended to grant preferential treatment to employees who left the Federal service; rather, it was intended to grant the same treatment to persons entering Federal service for the first time and to those returning to Federal service after more than minimal breaks in service.

We have also made one amendment to the proposed regulations on our own initiative. Under the proposed regulations, the FEGLI waivers of returning compensationers and disability annuitants were not automatically cancelled and compensationers and disability annuitants who had returned to Federal service on or after April 1, 1981, were not eligible to elect FEGLI coverage. The final regulations have been amended to provide that the FEGLI waivers of all returning employees, including compensationers and disability annuitants who have been separated from service for a least 180 days and who return to Federal service, are automatically cancelled upon their return to duty and that all employees, including compensationers and disability annuitants, who have returned to Federal service since April 1, 1981, may elect FEGLI coverage within 90 days of the date of publication of these

regulations. The cost impact of this change will be negligible.

As these regulations provide that employees who have been reinstated between April 1, 1981, and the present may elect FEGLI coverage within 90 days, we ask agencies for their assistance in publicizing this change so that eligible employees will be informed in a timely manner of their opportunity to enroll. However, agencies are not required to identify and notify individual employees who have been reinstated since April 1, 1981, to advise them of their eligiblity to enroll and the time limit for doing so.

Waiver of 30-Day Delay in Effective Date of Final Regulation

Pursuant to section 553(d)(1) and 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to enable interested employees to enroll without experiencing any delay.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because it affects Federal employees only.

List of Subjects in 5 CFR Parts 870, 871, 872, and 873

Administrative practice and procedure, Government employees, Life insurance, Retirement, Workers' compensation.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, Title 5 of the Code of Federal Regulations is amended as follows:

PART 870—BASIC LIFE INSURANCE

1. In § 870.204, a new paragraph (f) is added to read as follows:

§ 870.204 Cancellation of waiver of insurance coverage.

* * * * *

(f)(1) A previous waiver is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new waiver is filed, basic insurance coverage automatically attaches on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation.

(2) An employee who returned to Federal service between April 1, 1981, and December 8, 1983 after a 180-day break in service may elect basic insurance coverage upon application to his or her employing office before March 7, 1984.

PART 871—STANDARD OPTIONAL LIFE INSURANCE

2. In § 871.205, a new paragraph (f) is added to read as follows:

§ 871.205 Cancellation of declination.

* * * * *

(f)(1) A previous declination is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new declination is filed, standard optional insurance coverage is effective on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of standard optional insurance on the form entitled Life Insurance Election. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined standard optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 871.202(b).

(2) An employee who returned to Federal service between April 1, 1981, and December 8, 1983 after a 180-day break in service may elect standard optional insurance upon application to his or her employing office before March 7, 1984.

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

3. In § 872.205, a new paragraph (a)(5) is added to read as follows:

§ 872.205 Cancellation of declination.

(a) * * *

(5)(i) A previous declination is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new declination is filed, additional optional insurance coverage is effective on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of additional optional insurance on the Life Insurance Election form. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined additional optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 872.202(b).

(ii) An employee who returned to Federal service between April 1, 1981, and December 8, 1983 after a 180-day break in service may elect additional optional insurance upon application to his or her employing office before March 7, 1984.

* * * * *

PART 873—FAMILY OPTIONAL LIFE INSURANCE

4. In § 873.205, a new paragraph (d) is added to read as follows:

§ 873.205 Cancellation of declination.

* * * * *

(d)(1) A previous declination or waiver is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new declination is filed, family optional insurance coverage is effective on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of family optional insurance on the Life Insurance Election form. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined family optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 873.202(b).

(2) An employee who returned to Federal service between April 1, 1981, and December 8, 1983 after a 180-day break in service may elect family optional insurance upon application to his or her employing office before March 7, 1984.

(5 U.S.C. 8716)

[FR Doc. 83-32656 Filed 12-7-83; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, and 273

[Amdt. 259]

Food Stamp Program; Monthly Reporting and Retrospective Budgeting

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On May 25, 1982, the Department issued interim rules to implement the Food Stamp Program's monthly reporting and retrospective budgeting (MRRB) system mandated by the Omnibus Budget Reconciliation Act of 1981. The interim rule permitted State agencies to compute food stamp benefits for most households based on past information about the household rather than on anticipated future circumstances. The interim rule also permitted State agencies to require most households to report their financial circumstances each month. Comments on the interim rule were solicited through September 22, 1982. This final rule addresses the comments which were received. The final rule also addresses changes issued in an interim rule on November 5, 1982, permitting waivers of statutory provisions regarding monthly reporting. (This final rule does not address the statutory changes enacted on December 2, 1983. Those statutory changes will be addressed in a subsequent rulemaking.)

DATE: This final rule is effective January 9, 1984.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Mr. William B. Fisher, 3101 Park Center Drive, Alexandria, Virginia, or by telephone at (703) 756-3429. Copies of the Regulatory Impact Analysis, which is summarized in this preamble, are available from Mr. Fisher.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Department estimates that the rule may result in a savings of up to $280 million in fiscal year 1983. It is classified as a "major" rule because the rule will have an annual effect on the economy, through significant Program cost savings, of more than $100 million. However, the rule will not result in major increases in costs or prices, will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, this rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. Moreover, pursuant to Section 4(c) of Executive Order 12291, the Department has determined that this rule is within the authority delegated by law and consistent with Congressional intent. Because this is a major rule, the Department has prepared a final Regulatory Impact Analysis which is summarized below.

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354). Robert E. Leard, the Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities. The action makes final the provisions of the May 25, 1982 interim rule regarding MRRB. This action will affect Program participants and State and local agencies.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB). (OMB approval No. 0584-0064.)

Background

The Food Stamp Act Amendments of 1980 (Pub. L. 96-249, 94 Stat. 357, May 26, 1980) permitted State agencies to use retrospective budgeting and periodic reporting in the Food Stamp Program. The Department published a proposed rule on December 5, 1980 (at 45 FR 80790), which would have authorized this system. However, before a final rule could be published the Congress enacted the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 358 August 13, 1981) which significantly changed some features of the system.

On May 25, 1982, the Department issued interim rules (at 47 FR 22684) implementing the periodic reporting and retrospective budgeting system prescribed in Pub. L. 97-35. The 68 comment letters received regarding the December 5, 1980 proposed rule were considered during the development of the interim rule, which itself solicited public comment. A total of 42 comments were received regarding the interim rule, coming from State agencies, local agencies, legal assistance organizations, advocacy groups, citizens, and federal offices. This preamble describes the comments received and the changes that have been made in the interim provisions. However, a full understanding of the provisions of the final rule not addressed in this preamble may require reference to the May 25, 1982, interim rule.

On September 8, 1982, the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97-253, 96 Stat. 772) was enacted, making several changes with respect to MRRB. These changes are as follows.

1. Section 150 of Pub. L. 97-253 provides that the Department cannot waive the requirement that the income of migrant farmworker households be calculated on a prospective basis.

2. Section 154 made two changes. First, it expanded the exemptions from monthly reporting requirements to include households with no earned income in which all *adult* members are elderly or disabled. Second, section 154 authorizes the State agencies, with prior approval from the Department, to require select categories of households to report at specified intervals less frequent than monthly, provided that the State agency demonstrates that for such categories of households a monthly reporting requirement would result in unwarranted administrative costs.

3. Section 155 deleted the requirement for Department approval of monthly report forms developed by the State agency.

4. Section 156 expanded the statutory waiver authority, to allow the Department to waive the provisions of section 6(c) of the Food Stamp Act which establish the monthly reporting requirements. The Department may grant such waivers only to the extent necessary to permit the State agency to establish monthly reporting requirements that are similar to those used in its Aid to Families with Dependent Children Program (AFDC). Section 156 provides that the Department cannot waive the exemptions from monthly reporting for migrant farmworker households and households with no earned income in which all adult members are elderly or disabled. Such household cannot be required to submit monthly reports.

The provisions of section 150 and the provision of section 154 dealing with less frequent than monthly reporting will be discussed in a separate rulemaking, to be issued shortly, which will provide

opportunity for public comment. The provision of section 155 regarding development of monthly report forms has been put into effect already, by a final rule published on February 11, 1983, at 48 FR 6313.

The provision of section 154 expanding the exemption from monthly reporting to cover households with no earned income in which all members are elderly or disabled effectively *requires* an exemption which the May 25, 1982 interim rule included as a State agency option (§ 273.21(b)(2)(ii)). The only comments received on the interim rule's provision recommended that the option be converted into a required exemption, which is precisely what the statutory change entails. Consistent with the statutory change and the public comment, the Department has incorporated this mandatory exemption from monthly reporting into the final rule.

The provisions of section 156 allowing for waivers of monthly reporting requirements were included in an interim rule published on November 5, 1982, at 47 FR 50179, which provided a 90 day comment period. The Department has analyzed the comments submitted and has decided to make the provisions of section 156 final in this rule. (Since the interim rule is already codified, at 7 CFR 272.3(c)(6), the regulatory language is not repeated in this publication.) Of the 11 comments received regarding the interim rule, nearly all expressed approval of the change. One commenter recommended that the final regulations require State agencies to solicit public comment on proposed waivers. However, the Department believes that it would be unnecessarily burdensome for the regulations to require State agencies to propose waivers for public comment. The decision to solicit comments should be made by the individual State agencies. In addition, many States have their own administrative procedures acts which provide for public input on such matters. The Department feels that it would be inappropriate to impose such a requirement in the Food Stamp Program regulations. This policy was explained in greater detail in final regulations issued on November 26, 1982, at 47 FR 53309.

Retrospective Budgeting

Waivers

At the time that the May 25, 1982 interim rule was published, the statute provided a specific waiver authority only for the provisions of Section 5(f) of the Food Stamp Act of 1977 as amended. Section 5(f) describes prospective and retrospective budgeting, the prorating of income for certain households, the special provisions for beginning months of participation, and the exemption for migrant farmworker households from retrospective budgeting. Section 5(f) also mandates that retrospective budgeting procedures be implemented for all non-excluded households by October 1, 1983. The statute provided that waivers could be granted for all the Section 5(f) provisions to allow State agencies to calculate monthly household income as they do in their Aid to Families with Dependent Children Program (AFDC). The interim rule incoporated this waiver authority.

The waiver provision for retrospective budgeting included in the May 25, 1982 interim rule was the subject of a number of comments. One commenter argued that the statute only allows for waivers which affect those households participating both in the Food Stamp Program and AFDC. This commenter argues that the statutory and regulatory requirements cannot be waived for non-AFDC households. However, the Department believes that this interpretation would undermine the purpose of the waiver provision. The provision is intended to allow State agencies to simplify administration by establishing uniform procedures in the two Programs for calculating household income. To allow waivers only for food stamp households which also participate in AFDC would complicate rather than simplify administration.

Another commenter recommended that the regulations require State agencies to solicit public comment on proposed waivers. The interim rule specifically provided that waivers to the Section 5(f) requirements would not be subject to the Food Stamp Program's public comment requirements then included in 7 CFR 272.3(d). After the interim rule was published, the Department issued a final rule (November 26, 1982, 47 FR 53309) making it a State decision whether or not to solicit public comment on overall Program operations. This final rule retains this approach which reflects the Department's interpretation that the statute authorizes leaving such decisions as solicitation of public comment up to the States. Regarding the statutory MRRB waivers under Sections 5(f) and 6(c) of the Food Stamp Act, the federal administrative decision on whether to waive a portion of the Food Stamp Act regarding a State agency's MRRB system is not a federal rulemaking which requires public comment. These waivers of specified portions of the Act are management decisions specifically authorized by Sections 5 and 6 of the Act. The Departments policy regarding this subject was treated in greater detail in the final rule issued on November 26, 1982.

One commenter recommended that the final rule state that waivers of the requirements for averaging or prorating certain types of income will not be granted. Such income includes self-employment income received less frequently than monthly, contract income received over less than a year, and nonexcluded scholarships, deferred educational loans, and other education grants. The statute specifically provides for the averaging or proration of these kinds of income. At the same time, the statute allows the Department to waive the proration requirements.

The Department has decided to leave latitude in the final rule to allow a State agency to request a waiver of the averaging or proration requirements. As for all waivers, the State agency would have to submit information documenting the need for the waiver and showing how the waiver would improve efficiency and effectiveness. In addition, any waiver of the averaging or proration requirements would have to conform to the State agency's AFDC procedures. As a result, any waiver would have to be well justified. In addition, the Department wishes to point out that such a waiver would not cause higher levels of income to be attributed to the household throughout the year. Instead of having its intermittent income averaged or prorated over a number of months, the household would be attributed the income only in the months in which it is actually received.

Another commenter recommended that the Department monitor the costs and benefits of waivers that are granted. In granting waivers, the Department sometimes asks State agencies to report on the effects of waivers, including costs and benefits. The Department expects to continue doing this as a part of the process of evaluating and improving the MRRB system.

Exclusions From Retrospective Budgeting

Consistent with the statute, the interim rule excluded migrant farmworker households from retrospective budgeting. The interim rule limited this exclusion to migrant farmworker households which are in the migrant job stream. No other exclusions from retrospective budgeting were provided.

Migrant farmworker households. Two commenters recommended that the

exclusion for migrant farmworker households be extended to cover the first month after they return to their home bases from the job stream. The commenters made the point that verification of income and other retrospective information may not be available to such households until they have remained at home for a month or more. The Department agrees that requiring retrospective budgeting for a migrant household which has just returned to its home could impose a serious hardship on the household. For this reason, the final rule provides that when a migrant household applies for food stamps in the month it returns to its home base or the month after, it will be subject to prospective budgeting in the beginning months. This change is made by including these households under the serious hardship provisions. (See 7 CFR 273.21(g)(1)(iii).)

One State agency suggested that the final rule exclude all new arrivals in the State from retrospective budgeting. Another recommended an exclusion for all transient households. Instead of broadening the exclusion, the final rule adheres to the one exclusion mandated by the statute, i.e., the one for migrant farmworker households. However, State agencies may request specific waivers for categories of households, provided such waivers are consistent with the State agencies' AFDC systems.

Serious Hardships

Section 5(f)(4) of the Food Stamp Act requires that the regulations provide special consideration for households which otherwise would experience serious hardship as a result of retrospective budgeting in their first months of participation. The interim rule provided special consideration for serious hardship households by requiring that their eligibility and benefit levels be determined on a prospective basis during the beginning months.

Three categories of households were identified as eligible for this special consideration. The categories were: (1) Households that have gained or expect to gain a new member in the month of application; (2) households entitled to expedited service, determined retrospectively, in the month of application; and (3) other categories of households that would otherwise experience a serious hardship as identified by the State agency. As indicated above, the final rule adds another category, migrant farmworker households which apply for benefits after returning to their home base from the migrant job stream.

One commenter recommended that the first category of serious hardship be extended in States using a two-month system, to cover households which gained a new member in the month prior to the month of application. Otherwise, this commenter argued, a State agency which is looking back two months and determining eligibility retrospectively will not count the new member in the household. The Department agrees that this change would provide a more equitable treatment for those households and has incorporated it in the final rule. (See 7 CFR 273.21(g)(1)(i).)

The interim rule precluded serious hardship treatment for households which participated in the preceding month, households which had deliberately caused a decrease in their income, and households which have had their income reduced to recover prior overpayments in cash assistance programs. Several commenters argued that it is unfair to deny serious hardship status to households which have had their cash assistance income reduced as a result of State agency error or inadvertent household error. With regard to households subject to recovery for prior overpayments resulting from agency error, the Department agrees with these commenters and has revised the final rule accordingly. However, the Department does not agree that households whose cash assistance has been reduced due to the household's own errors, even if inadvertent, should qualify for the special consideration allowed for serious hardship cases. Therefore, the interim provision remains unchanged with regard to inadvertent household error cases. (See 7 CFR 273.21(g)(1)(vi).)

Commenters made a number of recommendations for other categories of households to be treated as serious hardship cases in beginning months. These categories included households that: (1) Have lost a substantial portion of their income; (2) have lost household members; and (3) have been terminated in the preceding month based on retrospective circumstances but in the current month have experienced a change in circumstances that would make them eligible for expedited service. Another commenter recommended that the final rule require that all households be treated prospectively in the beginning months, i.e., as serious hardship cases. The Department decided not to expand further the list of serious hardship categories in the regulations. The Department wishes to point out, however, that a number of State agencies have already requested and received waivers which allow them to use prospective budgeting to calculate beginning month benefits for all households. These waivers have been granted to allow State agencies to conform their food stamp systems to their AFDC systems. (In AFDC, all assistance units receive prospective treatment in their initial participation months.)

Several commenters suggested that the provisions for prospective budgeting for serious hardship households be extended beyond the beginning months to ongoing cases. The Department rejected this recommendation as it would complicate and undermine the new budgeting system. In addition, such a change would be inconsistent with Section 5(f)(4), which instructs that the special considerations shall be provided for "* * * the initial allotment of newly applying households * * *"

Definition of Beginning Months

The interim rule provided that the State agency could establish either a one month or a two month retrospective budgeting system. In a one month system there is one beginning month, and in a two month system there are two. Beginning months are those months at initial application in which serious hardship households receive benefits calculated prospectively. Following the beginning months, the household is shifted onto the retrospective budgeting system based on monthly reports submitted for the beginning month(s). AFDC regulations prescribe a very similar arrangement, using the term "initial months" rather than "beginning months." In the AFDC system, all households receive prospective treatment during "initial months."

Several commenters recommended that the final rule resolve an inconsistency between the food stamp and the AFDC systems with regard to such months. The inconsistency is described in the following example.

Assume that the State agency has adopted a two-month system. An eligible serious hardship household applies for both food stamps and AFDC on May 22. Under food stamp regulations which cannot be waived under any circumstances, the household will be due benefits prorated from May 22 through the end of the month, provided the benefits due equal $10 or more. As required in the interim rule, May and June would be the beginning months for food stamps. In AFDC, on the other hand, in some States assistance does not commence from the date of application. In this example, AFDC payments may begin as of June 1 or later. Therefore, the two beginning or initial months for AFDC purposes could

be June and July. In this example, the household's July food stamp benefits would be determined retrospectively while its AFDC grant for the same month would be calculated prospectively.

In the final rule, State agencies are granted the flexibility to extend prospective treatment under the Food Stamp Program to encompass AFDC initial months for a household which applies in the same month for benefits under both Programs. In the example above, the State agency may allow May, June, and July to be beginning months. This change does not mean that, to be like AFDC, the State agency could deny prorated benefits from the date of application. Benefits from the date of application are an entitlement under the Food Stamp Act (subject to the $10 minimum for the initial month). In addition, the Department emphasizes that this change only bears on a household which applies at the same time (i.e., the household submits both applications at the same time) for benefits under both Programs. A household which already is participating in the Food Stamp Program and subsequently applies for AFDC would continue under its food stamp budgeting system regardless of its treatment under AFDC. (See 7 CFR 273.21(d).)

The interim rule specified that "the beginning month cannot be any month which immediately follows a month in which a household is certified." This limitation was intended to restrict the special considerations connected with beginning months to newly applying households. The final rule retains this limitation. However, as one commenter argued, the limitation as quoted above appears to prohibit the use of more than one beginning month. This was not intended. To resolve this problem, the definition of "beginning months" has been revised. The final rule also revises the definition to provide that first beginning month may be the first month for which the household is certified if the household is ineligible in the month of application but is eligible in subsequent months. (See 7 CFR 271.2.)

The First Months of Retrospective Budgeting

The interim rule provided that income from a discontinued source which was received in the month of application and counted prospectively would be disregarded when the household is switched over to retrospective budgeting and the month of application becomes the budget month. This provision was made to ensure that nonrecurring income for one month is not attributed to the household in the calculation of benefits for two months. For example, a household applies in May and is given serious hardship status. Its nonrecurring income for May is counted prospectively, but when May subsequently becomes a retrospective budget month, the discontinued income is not counted.

One commenter argued that in a two month system, this income disregard should be extended to the first two months of retrospective budgeting for the household. Using the example above, the household's benefits would be calculated prospectively for both beginning months, May and June. This commenter argued that income discontinued in either May or June should be disregarded when that month becomes the budget month in July or August. The Department agrees with the commenter and has revised the provision accordingly. In addition, the final rule clarifies that the disregard only applies to discontinued income which was included in the household's prospective budget. Income which was not included in the prospective budget shall not be disregarded retrospectively, even if the income has been discontinued. These changes are consistent with the parallel AFDC requirement at 45 CFR 233.35(b). (See 7 CFR 273.21(g)(4).)

Budgeting System for Households Gaining a New Member

The interim rule made two special provisions for households gaining a new member. The first of these required that households which have gained or expect to gain a new member in the month of application be considered serious hardship cases subject to prospective treatment in beginning months. As described above, the final rule extends this provision to provide serious hardship treatment, in States using a two-month system, to households which gained a new member in the month prior to the month of application.

The second special provision deals with participating households which gain a new member while they are already in a two-month retrospective budgeting system.

The provision required that such households which gain a new member in the processing month (the month between the budget month and the corresponding issuance month) have their eligibility and benefits determined using their household composition as of the issuance month. The interim rule required that all other relevant information, including income and resources, be taken from the budget month in such cases.

The Department received several comments complaining that this provision is inconsistent with AFDC requirements. In AFDC, the new member is treated like a new applicant. All of the information regarding the new member is looked at prospectively (for the payment month), and it is combined with retrospective information regarding the other members of the assistance unit. To provide a consistent system for the two Programs, the final rule requires the State agency to use prospective information (income, deductible expenses, and resources) regarding a new household member for the period allowed for beginning months. This information would be combined with retrospective information on the other household members.

The final rule makes one exception to the provision requiring prospective budgeting with regard to the new member. This exception only applies to a two-month system. The exception is that if the new member is leaving one food stamp household participating within the State and moving into another food stamp household, with no break in participation, the new member's income deductible expenses, and resources will be considered retrospectively for the determination of benefits (and eligibility, if appropriate) in the issuance month. In such cases, the State agency may count the member and the member's income, deductible expenses and resources in the benefit determination for the issuance month for either the losing or the gaining household, but not for both. If the new member is counted in the gaining household for the month, then the only deductible expenses for the budget month which the new member may include in the household's deductions shall be medical, dependent care and shelter costs which are not included in member's prior household's budget. For example, is a medical expense is being deducted for the prior household, it shall not be deducted for the gaining household in the same month. If the prior household is using the standard utility allowance and its full rent to establish its shelter deduction, then no shelter costs for the new member shall be included in the gaining household's deduction for the month. In the subsequent month, the new member would necessarily be included in the gaining household and excluded from the losing household.

This exception is included in the final rule to prevent the double issuance of benefits for persons moving from one food stamp household to another. The final rule only requires State agency

action to prevent such double issuances with regard to individuals moving within the State in order to be consistent with the regulations at 7 CFR 274.1(d), which were issued on March 4, 1983, at 48 FR 9212. State agencies which are able to prevent double issuances with regard to individuals moving from outside the State should do so. To accomplish the objective of preventing double issuances to individuals, the State agency will have to ascertain whether or not the reported new household member has just left another food stamp household.

The Department recognizes that this requirement entails some additional administrative burden. However, the Department believes that it is essential to Program accountability to prevent double issuances. (See 7 CFR 273.21(f)(1)(iii) and (f)(2)(iv).)

AFDC Grants

The interim rule allowed State agencies the option to count AFDC grants either prospectively or retrospectively throughout the certification period. If the State agency chose to count AFDC grants prospectively (from the issuance month), that income information would be combined with all the other information taken retrospectively (from the budget month) to determine the benefit level.

This provision was included in the interim rule on the assumption that by the time the State agency calculates the household's food stamp issuance, it would also know the household's full AFDC grant level for the issuance month. However, after the interim rule was developed, AFDC instituted policies allowing for additional or corrective payments after the normal grant has been paid out. For example, an AFDC assistance unit may be issued its grant on June 1, but due to a change in the household's standard of need the State agency may issue a corrective payment later in the month. Under the option in the Food Stamp Program's interim rule, the State agency very likely would count only the June 1 payment as household income. The "correction" to the AFDC grant would never be counted as income.

In recognition of the change in AFDC, the Department has amended the option for treating AFDC grants prospectively by requiring that the State agency ensure that corrective payments are counted as income. The change is intended to ensure that corrective payments will not go uncounted. The State agency may count the corrective payments either prospectively along with the basic grant (as income in the issuance month) or retrospectively (as income in the budget month). For example, in a two month system, the State agency may count a corrective payment made in June either prospectively toward the issuance for June, or retrospectively toward the issuance in August. This change will ensure that food stamp allotments reflect household income, yet will allow State agencies flexibility for accounting for corrective payments.

After the interim rule was published, the Department learned that the use of the option to count AFDC grants prospectively can cause hardship in cases where a food stamp household that also is receiving or applies for AFDC loses a source of income. For example, a food stamp household has been receiving unemployment compensation (UC), but the UC runs out in February. The household applies for and receives AFDC beginning in March. If the State agency has elected to count AFDC income prospectively in calculating food stamp benefits, it would add the UC payment from the budget month to the AFDC grant from the issuance month to determine the March issuance. As a result, even though the UC benefits have terminated and the household is receiving AFDC in their place, both types of income would be counted and benefits would be sharply reduced.

To avoid this harship, the final rule provides that if a food stamp household on retrospective budgeting receives AFDC and the State agency has elected to use issuance month AFDC payments to determine income, the State agency shall disregard income from a terminated source received in the budget month. To qualify for this disregard, the household must report the termination of the income either in the monthly report for the budget month or in some other manner which, as determined by the State agency, allows sufficient time to process the change and affect the allotment in the issuance month. This provision will provide for equitable treatment of households and should not result in additional State agency workload. (See 7 CFR 273.21(j)(1)(vii)(B)).

Monthly Reporting

Who Reports and When

Pub. L. 97–253 made two changes regarding who is required to report and when. Prior to enactment of Pub. L. 97–253, the statute excluded from monthly reporting (1) migrant farmworker households, and (2) households with no earned income in which all members are elderly or disabled. Pub. L. 97–253 expanded the second exclusion to cover households with no earned income in which all *adult* members are elderly or disabled. This expanded exclusion was provided as an option in the interim rule. The final rule, reflecting the statutory change, requires that these households be exempted from monthly reporting.

Pub. L. 97–253 also provided specific authority for a State agency, with the Department's approval, to select categories of households to report less frequently than the normal periodic reporting. To get the Department's approval, the State agency would have to demonstrate that requiring monthly reporting for such categories of households would result in unwarranted administrative expense. This change will be included in an upcoming rulemaking which will solicit public comment.

Several commenters on both the May 25 and the November 5, 1982 interim rules made suggestions regarding categories of households that should be included or excluded from monthly reporting. Two recommended that households with no earned income and no recent work history be excluded. Another suggested that included households should be those types identified as error prone by the State agency. One argued that, at a minimum, all households which receive AFDC should be required to report monthly.

The Department has decided not to make further changes in the interim rule's provisions regarding inclusions and exclusions. As described above, Pub. L. 97–253 grants the Department authority to approve a State agency's selection of categories of households to report less frequently than monthly on receiving a satisfactory request from the State agency. In implementing monthly reporting, State agencies should also consider requesting statutory waivers to establish effective and efficient systems consistent with their AFDC systems. By using the statutory waiver system rather than providing exclusions for categories of households, the final rule will allow State agencies greater administrative flexibility. It will also require State agencies to carefully consider how best to target monthly reporting. As pointed out earlier in this preamble, the MRRB statutory waiver provisions authorize the Secretary to waive provisions of the statute. Related State agency AFDC procedures then may come into operation to replace the waived statutory provisions.

Timeframe for Submission of Monthly Reports

The interim rule did not impose a required timeframe for the submission of

monthly reports. Instead, the rule simply required that State agencies give households a reasonable period of time following the end of the budget month to submit the monthly report. Several commenters suggested that the final rule specify what constitutes a "reasonable period" (e.g., 5–7 days). On the other hand, the Department also received comment supporting the interim rule's flexibility on this issue. The Department decided not to change the interim provision. State agencies recognize that placing too tight a deadline for submitting monthly reports would only increase their administrative workload. For example, if a State agency were to require that reports be submitted within 3 days of the end of the budget month, a large number of reports would not be received on time. This would force them to generate a notice to each of these households for reports that would be submitted anyway. For this reason, the Department believes that State agencies will establish realistic timeframes for the submission of monthly reports.

Monthly Reporting Forms

The interim rule identified a number of items which State agencies were required to include on the monthly report form. This list was intended to ensure that the form adequately informed the household of its rights and responsibilities in connection with the monthly report.

Several comments on the required contents of the form were received. Several commenters recommended the deletion of the list of required items. However, the Department decided to retain the list, with some modification, to emphasize the importance of a complete and informative report form. Other commenters recommended that certain items be deleted from the list, including the verification requirements, the civil and criminal penalties for fraud, the explanation of provisions for fair hearings based on a reduction on termination of benefits, and the instruction that the household may be reinstated by submitting the monthly report.

To emphasize the importance of using a complete and informative report form, the Department has retained the list included in the interim rule. However, two changes have been made. The verification requirements are retained because they are essential to ensuring that timely and accurate reports are submitted. The civil and criminal penalties are still included as Section 6(c)(3) of the Food Stamp Act requires they be on the form. The Department has decided to remove the requirements that the form explain the fair hearing provisions and the instruction on reinstatement. The explanation of the fair hearing provisions is a required component of all notices in the MRRB system regarding changes in household benefits. This explanation is provided at the time that the household needs it, that is, when it may wish to request a fair hearing. Therefore, the explanation on the monthly report form is unnecessary. The instruction on getting reinstated by submitting the report is removed for a similar reason. The same instruction is provided in the notice that the household has been terminated for failure to submit a complete monthly report. To require it on the monthly report form serves no useful purpose.

Toll free telephone number. Three commenters recommended that the final rule clarify that the monthly report form must provide a telephone number, toll free for households calling from outside the local calling area, for households to call for assistance. Other commenters recommended that this requirement be deleted. These commenters argued that it is unnecessary to include the telephone number on the forms as households can be adequately informed regarding how to get assistance at certification or recertification.

The Department is convinced that it is essential to the monthly reporting system that households have access to assistance in filling out the report forms. If such assistance were not provided as needed, the State agency would receive more incomplete and incorrect monthly reports. This would entail an increase in administrative workload (in generating and mailing notices, reviewing corrected reports, etc.) as well as an avoidable delay in the issuance of benefits.

One way to avoid such problems is to include telephone number along with the monthly report form. However, the Department recognizes that in some States it may be extremely difficult for the State agency to include the toll free number on the form itself. An example would be a State in which all the forms are distributed in a mass mailing from a central office, but the telephone numbers are different for every local office.

The Department has decided to address these concerns in the following way. The final rule does not require the State agency to include the telephone number, toll free for households calling from outside the local calling area, on the monthly report form. (Nonetheless, a toll free number must be available, even if not printed on the form). Instead, the final rule simply requires that the monthly report form identify the person or office which the household may contact for assistance in completing the monthly report.

Social Security Numbers. The interim rule required that the monthly report forms include a statement of the authority to require the household to submit Social Security Numbers (SSN's), the purpose and use for the requirement, and the effect of not providing SSN's. These provisions were included to satisfy the requirements of the Privacy Act of 1974 (Pub. L. 93–579, Section 3(e)).

Several commenters objected to the requirement that the SSN statements be printed on the monthly report forms. These commenters argued that the statements will cause the form to be unnecessarily long and that the household could be given sufficient information under the Privacy Act requirements at the time of certification and recertification. The Department is sympathetic with the desire to shorten the monthly report form but is bound by the Privacy Act to require that the information be provided to the household whenever SSN's are demanded. However, the final rule does offer State agencies two alternatives which would allow them to avoid the requirement to print the SSN statements on the monthly report form itself. The first option would allow the State agency to attach the SSN statements as an addendum to the monthly report form. Under the second option, the State agency would not be required to ask for the SSN's on the monthly report form. Instead, the State agency may choose to require only that the existence of a new household member be reported on the monthly report. When a new member is reported, the State agency would have five days to notify the household that the new member's SSN must be submitted. The notice would include the Privacy Act statements. The household would have to report the SSN (or apply for an SSN) by the extended filing date, or the new member would not be certified for the issuance month.

The Department realizes that in choosing the second option, the State agency would have to accept the burden of making an additional mailing to the household. However, the Privacy Act requirements must be satisfied in one way or another. The alternatives provided in the final rule will satisfy these requirements and at the same time allow State agencies to shorten the monthly report form. (See 7 CFR 273.21(h)(2)(viii).)

Standard utility allowances. Two commenters suggested that the State agency be required to print its standard utility allowance on the monthly report form. These commenters were

concerned that households with utility expenses exceeding the standard utility allowance otherwise might be unaware of the need to verify their utility costs. Failing to verify these costs, the households would not be allowed to deduct their actual utility costs.

This concern also was reflected in the legislative history on Section 149 of Pub. L. 97–253, which made a number of changes in the provisions governing the use of standard utility allowances. (The Department issued interim regulations implementing Section 149 on November 16, 1982, at 47 FR 51551.) The House of Representatives Committee on Agriculture, in H.R. Rep. No. 97–678, pages 46–47, directed the Department to revise the regulations to ensure that households are informed with regard to those occasions when their actual costs must be verified. The Committee stated that the Department "could resolve this matter either by requiring the standard to be printed on the monthly report forms, by modifying the requirement for reverification of utility costs on a monthly basis, or by providing States options on which of these to follow."

The Department decided against requiring the State agency to print the standard utility allowance on the monthly report form. In many States, the standard utility allowances vary both geographically and seasonally. Many State agencies have separate standard allowances for each utility. These factors might make it completely impractical to print standard allowances on the forms. In addition, the Department believes that in light of changes in the regulations governing the use of standard utility allowances, published on June 21, 1983 (48 FR 28190), there is no longer any need to print the standard utility allowance on the monthly report form.

That final rule and its implications for MRRB are discussed in greater detail later in this preamble. The Department also decided not to weaken the requirements for reverification of utility costs on a monthly basis. The verification requirements, like monthly reporting itself, are designed to provide improved accuracy in eligibility and benefit determinations. To reduce verification would compromise these purposes.

Reported Information

The interim rule identified the kinds of information households are required to submit on monthly reports. For the budget months, households are required to report income, deductions, household composition, and other circumstances relevant to the determination of benefits. The household also is required to report the same kinds of circumstances affecting eligibility which the household expects to occur in the month it files the report and in future months.

Several comments on these requirements to report deductions were received. One commenter recommended that households not be required to report unchanged deductions. Another recommends that households be required to report deductions only when they change by more than $25. Yet another commenter suggested that State agencies be allowed to use a fixed shelter deduction rather than reported costs throughout a household's certification period. These suggestions have not been incorporated in the final rule. The Department remains convinced that the accuracy of eligibility and benefit determinations is best ensured by requiring a specific report of deductions each month.

One commenter recommended that the final rule replace the word "deductions" with "medical, dependent care, and shelter expenses." The commenter argued that the term "expenses" would be better understood by households than would "deductions." The Department agrees with the commenter and has revised the rule accordingly. (See 7 CFR 273.2(h)(3).)

Two commenters recommended deletion of the requirement that households report their anticipated future month circumstances. These commenters argued that this information is likely to be imprecise and to lead to increased error rates. However, because future month information is necessary for State agencies which determine eligibility prospectively the final rule retains the requirement. However, the Department recognizes that future month information would rarely serve a useful purpose for State agencies which receive a waiver and determine eligibility retrospectively. For this reason, a State agency which requests a waiver to determine eligibility retrospectively may also want to request a waiver of the requirement to include future month information on the monthly report.

The interim rule included the general requirement that any information affecting the household's eligibility or benefit level be reported. In the final rule, the Department is specifying one type of such information that must be reported. The final rule requires that households containing a sponsored alien report information on the sponsor's circumstances. Such information includes the sponsor's (and, if living with the sponsor, the sponsor's spouse's) income, resources, and other circumstances as identified in 7 CFR 273.11(h).

The counting of the sponsor's income and resources was mandated in Section 1308 of Pub. L. 97–98, the Food Stamp Amendments of 1981 (enacted on December 22, 1982). On December 10, 1982, at 47 FR 55493, the Department issued regulations to implement this requirement. The requirement for submission of such information is being made explicit in this final rule to ensure that the income and resources of the aliens' sponsors are not overlooked. (See 7 CFR 273.21(h)(3)(iii).)

Verification

Under the interim rule, households are required to verify information submitted on the monthly report as follows. (1) Each month households are required to verify gross nonexempt income, utility expenses which exceed the standard utility allowance, medical expenses, and any reported information which the State agency determines is questionable. (2) When information has changed since the previous report (that is, during the budget month), the household must verify alien status, social security number, residency, and citizenship. (3) The State agency is allowed to require the household to verify any other information on the monthly report.

Required verification. Commenters suggested several revisions in these requirements. A few commenters suggest that the final rule not require verification of unchanged income, medical expenses, or utility expenses in excess of the standard utility allowance. Others recommended verification only of changes in these items exceeding $25. These commenters made the argument that there is no need to verify these items when they are stable. However, to do away with verification of these categories of information would presuppose that they are stable. In fact, Program experience indicates that these items are particularly prone to change. It is for this reason that these items are part of the mandatory verification procedures for certification provided under 7 CFR 273.2(f). The Department has, therefore, retained these minimum mandatory verification requirements in the final rule.

Two commenters argued that there is no need to verify on a monthly basis income which has been annualized or prorated. Such income includes certain self-employment income, contract income, and educational assistance. The Department agrees that reporting and verifying a pre-established annualized or prorated income level in many cases would be unnecessary or even

impossible. At the same time, changes in the basic income information should be reported, to allow for correction in the annualized or prorated level.

In the final rule, the Department has not established special reporting and verification provisions for these kinds of income. Instead, the rule leaves discretion to the State agency to model its own procedures for dealing with annualized and prorated income. Some State agencies may choose to require these households to report and verify all of their actual income monthly. Other State agencies may choose to require the households only to report income coming from sources not counted in the annualization or proration. Either of these procedures would require that the State agency process the monthly reports separately in order to use the annualized or prorated income. Still other State agencies may wish to request waivers of certain MRRB provisions for these households. The final rule allows the State agency the flexibility it needs to tailor procedures to address the practical problems raised by the requirement to annualize or prorate income of certain households.

Unverified information. Many of the other comments received regarding verification had to do with State agency action on reported but unverified information. The interim rule set forth a system for State agency action on unverified information as follows:

1. If earned income is not verified, the monthly report is considered incomplete and no issuance can be made. (An incomplete report is one which *cannot* be processed, and if it is not completed, the household will be terminated). Under the interim rule, failure to verify earned income by the extended filing date would result in termination.

2. Utility costs in excess of the standard utility allowance are only deductible if they are verified. If such costs are not verified, the standard utility allowance is deductible if the household qualifies for it. If the household is not qualified for the standard utility allowance and reported costs are not verified, no deduction for utility costs is allowed.

3. If medical costs are not verified, no deduction for such costs is allowed.

4. With regard to any other unverified reported change (including unearned income, dependent care expenses, etc.), the State agency must act on the change if it would decrease benefits or leave them unchanged. If the change would increase benefits, the State agency cannot act on the change and the report is processed as though the unverified information were unchanged.

A number of commenters, mostly State agencies, argued very strongly against any requirement to verify unearned income which has not changed since the preceding monthly report. These commenters were particularly concerned with Social Security, Supplemental Security Income, Retirement Survivors Disability Insurance, AFDC, and other assistance income which is not subject to frequent change. To address the concerns of these commenters and to simplify the verification requirements, the final rule does not require verification of unchanged unearned income. However, State agencies may elect to require verification of such income under the optional verification provisions. In addition, the Department points out that in many cases the State agency can verify unearned income either by reference to the PA case files, SDX, Bendex, or other sources. (See § 273.21(i).)

Two commenters argued that the verification requirements should be made more stringent. One of these commenters suggested that failure to verify *any* information should render the monthly report incomplete. In the final rule, the Department has not further tightened the verification requirements as these commenters recommended. To prohibit the State agency from processing a monthly report because the household did not verify an item that will cause either a decrease in benefits or leave them unchanged would place an unnecessary hardship on the household and an administrative burden on the State agency. In addition, the Department points out that with the MRRB rule and a final rule issued on November 26, 1982 (at 47 FR 53309), the authority of State agencies to require verification has been substantially increased. For these reasons, the Department believes that at this time more rigid verification requirements should not be imposed by the regulations.

After the May 25, 1982 interim rule on MRRB was published, Congress enacted Pub. L. 97-253. Section 149 of Pub. L. 97-253 called for several changes in the use of standard utility allowances in the Program. These changes were included in a final rule issued on June 21, 1983 (48 FR 28190).

The legislative history on Section 149 indicates that Congress intended that the Department take steps to prevent households from switching back and forth between their actual utility costs and the standard utility allowance during their certification periods (S. Rep. No. 97-504, July 26, 1982, p. 34). Responding to this instruction, the June 21, 1983, final rule included provisions to prevent switching between actual utility costs and the standard utility allowance during the household's certification period. The final rule provided that if the State agency uses standard utility allowances that fluctuate seasonally, the household would only be allowed to switch at recertification. If the State agency uses an annualized standard utility allowance, the final rule would bar switching for a period of one year from the time the household makes its election to use either the standard utility allowance or actual costs to establish its deduction. These changes were intended to apply to all food stamp households, monthly reporting and non-monthly reporting alike.

As stated above, the interim MRRB rule required that where the household is claiming actual utility costs in excess of the standard utility allowance but fails to verify the claimed costs, the household would be switched to the standard utility allowance. The Department believes that this monthly reporting verification provision must be revised to be consistent with the June 21, 1983 final rule. Therefore, this final rule provides that the household would not be switched to the standard utility allowance when it fails to verify the claimed utility costs. Instead, when a report claiming unverified utility costs is received, the State agency is required to notify the household of the lack of verification (if benefits would be adversely affected) and provide an extended filing period for submitting the verification. If the household still fails to submit the verification, then no deduction for utility costs will be allowed.

These provisions apply only to households that use their actual utility costs to establish their shelter cost deductions. For households deducting the standard utility allowance, the final rule clarifies that no verification of utility costs is required along with the monthly report. This clarification recognizes that households establish their eligibility for the standard utility allowance at the time of certification, and that further verification is unnecesary. The Department believes that these changes are necessary to establish a consistent policy for the deduction of utility expenses. (See 7 CFR 273.21(i)(1) and (j)(3)(iii)(B).

Missing verification. Several commenters asked that the final rule clarify that if a monthly report is submitted without required verification, the State agency is required to notify the household. The interim rule required the State agency to notify the household if

the monthly report is incomplete, but the rule did not make an explicit statement regarding exactly what is missing. The final rule clarifies that if verification is needed to support a household's claim to a deductible expense or to support other information relevant to the eligibility or benefit determination (even if the lack of verification would simply cause the household to receive a smaller deduction than would be expected based on the reported expense), the State agency is required to notify the household regarding what is missing. As for notices of late or incomplete reports, the State agency is required to provide this notice within five days of the normal filing date. If the household then fails to provide the verification within the extended filing period, the State agency would follow the procedures set forth in § 273.21(j)(3)(iii). (See 7 CFR 273.21(j)(3)(ii)(c).)

Special assistance. The interim rule required State agencies to provide special assistance in completing and filing monthly reports to households whose adult members are mentally or physically handicapped or lacking the reading or writing skills they need to complete and file monthly reports. The special assistance requirement reflects the provisions of section 6(c)(3)(B) of the Food Stamp Act.

Several commenters asked that the final rule specify that the special assistance apply to households whose adult members are non-English speaking and for that reason lack the necessary reading or writing skills. The Department intended that the special assistance requirement apply to these households. However, to address the concerns of the commenters, the final rule makes the policy explicit. The State agency must ensure that in all project areas, non-English speaking households required to submit monthly reports are provided with special assistance. The Department points out that the requirement to provide special assistance to non-English speaking households applies to all project areas, not just to those subject to the bilingual service requirements of 7 CFR 272.4(c). A few commenters recommended that the final rule impose requirements for specific forms of special assistance. However, State agencies and local offices are in a much better position than the Department to determine which forms of special assistance are needed. Therefore, the final rule retains the requirement to provide special assistance, and leaves State agencies the flexibility to tailor the assistance to the needs of their participants. (See 7 CFR 273.21(b)(3).)

Postage paid envelopes. Several commenters recommended that State agencies be required to provide postage paid envelopes to households along with the blank monthly report forms. The commenters argued that household should not have to pay the mailing costs of monthly reporting. In the final rule, the Department has not required State agencies to provide postage paid envelopes. The Department views the mailing costs as a reasonable cost of participation, just as the cost of transportation to the local office for a required interview is a cost of participation. In addition, it would be inconsistent with AFDC to require State agencies to provide postage paid envelopes to households. However, should a State agency elect to provide them, the Department will reimbuse the State agency's administrative costs according to the usual formulae. Of course, households may hand deliver their monthly reports if they wish.

Processing Monthly Reports

Several commenters indicated general approval of the substance and flexibility of the provisions governing the processing of monthly reports. However, commenters did submit several recommendations for changes which are discussed below.

Impact on work registration status. The interim rule required the State agency to contact the household with regard to the effect of a reported change in household composition on the applicability of the work registration requirements. For example, when a household reports the gain of a working age member, the State agency must contact the household to find out if the new member should register for work. One commenter asked why this provision was limited to reported changes in household composition when other reported changes could well affect the applicability of the work registration requirements.

The Department limited this provision to changes in household composition in view of the fact that a substantially broader requirement would entail a great administrative burden. Just processing the monthly reports is a demanding task. To require the State agency to review each and every item on the report to consider its possible impact on the household's work registration status and then to contact the household would complicate processing still further. The Department does not want to impose further burdens on the State agency for reported changes that, as likely as not, would have no effect on the household's work registration status. However, the Department has expanded the provision to require the State agency to contact households which report the loss of a job or a source of earned income. This change is made in view of the high probability that the loss of a job will affect work registration status. (See 7 CFR 273.21(j)(1)(iv)(B).)

Conversion to monthly income. The interim rule allowed the State agency the option of converting to a regular amount income that a household receives weekly or biweekly. While several commenters expressed support for this option, others opposed it. Some wanted to require conversion, and others to prohibit it. Those who recommended that conversion be required argued that it would protect the household from being suspended for a month or terminated just because it receives an extra pay check. The commenters who opposed allowing conversion argued that conversion is contrary to the design of MRRB, which is to make benefits reflect the household's actual circumstances in the budget month. The Department recognizes some merit in each of these arguments, but feels that the State agency should be free to establish procedures for counting weekly and biweekly income which address their needs. Therefore, the final rule leaves the interim provisions unchanged. (See 7 CFR 273.21(j)(1)(vii)(A).)

Processing averaged income or expenses. One commenter asked that the final rule explain how State agencies must process monthly reports for households with annualized or prorated income. Another asked the same question with regard to households with averaged utility expenses (see § 273.10(d)(3)). Annualizing, prorating, and averaging of income or expense information will require adjustment of the normal processing system, as reported (actual) information may be used in determining the allotment. State agencies will need to establish a method of handling monthly reports of households to which these provisions apply. Examples of ways this could be done include coding the report form for these households, or providing an area on the form for the household to indicate that it has been approved for annualizing, prorating, or averaging information. The Department believes that this problem can only be addressed at the State agency level, as the solution must be tailored to conform to the State agency's administrative systems. For this reason, the final rule does not attempt to regulate this procedure.

Explanation of benefit calculation. The interim rule required that, for each

allotment, the State agency provide the household with specific information on how the allotment was calculated. Several commenters recommended that this requirement be deleted, while one other recommended that it be modified to require a general explanation of how benefits are calculated. Finally, one commenter suggested the notice be required only when the household's allotment has changed since the preceding month.

The interim provision was included because the Department believes that the household is entitled to an explanation of the basis of its allotment where the new allotment is based on changes in circumstances particular to the household. At the same time, the Department agrees with the commenter who contended that the explanation of the benefit calculation is not necessary when benefits have not changed. The final rule, therefore, only requires that the explanation be provided when the benefit level has changed from the preceding month. (See 7 CFR 273.21(j)(1)(ix).)

Late or incomplete reports. The interim rule provided that the State agency shall establish a reasonable due date for submission of monthly reports. If a household fails to submit a completed, timely monthly report by the due date, the State agency is required to notify the household within five days that its report is incomplete or overdue. With this notice, the State agency is required to extend the household at least 10 days from the date the notice is mailed to submit a complete monthly report. For a household which submits its complete monthly report late, but by the extended filing date, the State agency is required to provide the household with an opportunity to participate within 10 days of the date the household normally receives its allotment. However, the interim rule added a further deadline for providing an opportunity to participate. The interim rule required that the opportunity to participate be provided within 45 days of the end of the budget month. (The 45 day requirement is deleted in the final rule. This change is discussed in the next section of this preamble.) Finally, if the household failed to submit a complete monthly report (that is, a report which can be processed) by the extended filing date, the interim rule required the State agency to terminate the household. If a monthly report is incomplete, as specified in 7 CFR 273.21(j)(1)(ii), the household cannot be provided an issuance. The State agency is required to send the household a notice of termination so that it would be received no later than the date the late allotment would have been received (i.e., the normal allotment date plus 10 days). The rule provided the State agency with the option to reinstate a household which fails to meet the extended filing date, but does submit a complete monthly report by the end of the issuance month. Households granted reinstatement under the interim rule's option would receive a benefit for the full issuance month.

Several comments were received regarding these provisions for processing late or incomplete reports. One commenter asked for clarification of the provisions for processing monthly reports that are both late and incomplete. The requirement is that the household be notified within five days of the normal due date that its report is late. The notice will inform the household that if a complete monthly report is not submitted by an established extended filing date, the household will be terminated. If the household submits an incomplete report by the extended filing date, the State agency is not required to provide another notice with regard to the report's incompleteness. The only other required notice in such cases is the notice of termination, which would be provided to the household no later than the date by which the household would otherwise be due an issuance.

Another commenter recommended that the minimum extended filing date be ten days from the original due date rather than ten days from the date the notice is mailed. The Department has rejected this recommendation for two reasons. First, it would place an undue hardship on households, as they might not even receive notice that the report is late or incomplete until five or more days after the original due date, leaving the household only a few days to complete the report and gather any required verification. Second, the change would be inconsistent with AFDC requirements which provide that the monthly report shall be accepted if the recipient submits it within ten days of the date of notice (45 CFR 233.37(b)).

Issuance of Benefits

Time limits for issuance. Several commenters objected to the 45 day limit for providing an opportunity to participate to households in a two month system. These commenters pointed out a conflict between the 45 day limit and a proposed rule on staggered issuance published on April 2, 1982 at 46 FR 14160. That proposed rule would have allowed the State agency to stagger issuances through the end of the month. Currently regulations only allow staggered issuance through the 15th of the month. The 45 day limit, however, would bar a State agency from staggering issuances after the middle of the month. For example, 45 days from the end of May is July 15, so the 45 day limit would prohibit State agency from staggering the issuance of benefits after that date.

To reconcile this discrepancy and to increase State agency flexibility, the final rule deletes the 45 day limit on providing an opportunity to participate. The 45 day limit was included in the interim rule to ensure that there is no undue delay in providing benefits to households. However, the Department agrees with the commenters that this objective is achieved with the requirement that the State agency provide an opportunity to participate within 10 days of the date the household normally receives its allotment. Therefore, a State agency that has staggered its issuances and scheduled a household's issuance for the 20th of the month would be allowed to make the issuance as late as the 30th if the household submitted its monthly report late, but by the extended filing date. This change in the MRRB rule allows State agencies to even out their workload by staggering the scheduled issuances throughout the month. The Department will issue corresponding changes in the issuance rules at 7 CFR 274.2 and 274.3 in the near future.

Information submitted outside of the monthly report. Section 6(c) of the Food Stamp Act stipulates that no additional reporting requirements shall be imposed on households required to submit monthly reports. However, it is likely that from time to time State agencies will receive information outside of the monthly reporting system. It is virtually certain that information will be received outside of the monthly report from households which also participate in other programs administered by the State agency.

A few commenters asked that the Department clarify how State agencies should react to information received outside of the monthly reporting system. The State agency is required to reflect such new information in the first regularly scheduled allotment which its administrative systems (taking into account the notice requirements and the State agency's processing system) permit it to affect. For information submitted with regard to other programs administered by the State agency, such as AFDC or GA, the State agency is required to take action on the new information as it affects food stamps at the same time it takes the corresponding

action on the other program, or as soon thereafter as possible, in accordance with the provisions for notices of adverse action in § 273.13(a).

For example, a household has submitted its monthly report on November 5 describing its October circumstances. In a two month system, this report would normally be the basis for calculating the December allotment. On November 10, however, the State agency receives an AFDC incident report indicating that the household had a significant change in income for the month of October. For AFDC purposes, the State agency may take action on the change for November, either by initiating a recoupment or providing a State only supplementary payment. In food stamps, the State agency is prohibited from recouping benefits or issuing supplemental benefits in such situations. Instead, the State agency is required to take action on the the new information in the next regular, scheduled food stamp allotment that it can affect, consistent with the provisions governing notices of adverse action in § 273.13(a)

Termination/Suspension

The interim rule provided State agencies with two methods, termination and suspension, for dealing with households which become ineligible. Termination was the required method for dealing with ineligibility due to any cause, except that the State agency was granted the option to suspend, rather than terminate, households which become ineligible due to a periodic increase in recurring income. The interim rule required that State agencies use termination procedures for a household which fails to submit its monthly report by the extended filing date. (Suspension was not an option for a household which fails to report.) The rule provided the State agency the option to reinstate the terminated household if it submitted the complete monthly report by the end of the issuance month. If reinstated, the household would receive a full allotment for the issuance month. If the State agency did not choose this option, households failing to submit a monthly report by the extended filing date could only gain readmission to the Program by reapplying, provided the household did not gain readmission through the fair hearing process.

Several commenters argued that the interim rule was inconsistent in its treatment of the reinstatement option. These commenters contended that in some paragraphs the interim rule and its preamble seemed to require the State agency to allow reinstatement for households which failed to submit the monthly report by the extended filing date. The final rule has been modified to clarify that the reinstatement policy is a State agency option.

Suspension. The interim rule provided the State agency with the option to suspend, rather than terminate, households which become temporarily ineligible due to a periodic increase in recurring income. The interim rule provided that a household could be suspended for only one month. A household which did not become eligible after one month would have to be terminated.

Several commenters recommended that the final rule *require* State agencies to use suspension procedures (rather than termination) for households which became temporarily ineligible. These commenters argued that suspension is preferable because it is administratively simpler and places less hardship on the household. However, for some State agencies, instituting suspension procedures would be a major complication rather than a simplification. Suspension procedures require a special tracking system so that after one month the household's newly reported circumstances can be considered to determine whether benefits or a termination notice must be sent. For households which do not become eligible after one month, an extra notice is required, one for suspension plus another for termination. In addition, the termination procedures themselves will not reduce benefits to the household. They simply provide that once the household has become ineligible for food stamps, it must reapply to get them again. If the household becomes eligible again and it promptly reapplies, no benefits will be lost and benefits will be issued without delay. For these reasons, and to retain State agency flexibility, suspension procedures remain a State agency option under the final rule.

A number of commenters suggested that the State agency's suspension option be broadened to cover changes in household circumstances other than periodic increases in recurring income. An example of such a change might include receipt of nonrecurring or one-time-only income. A few of these commenters pointed out that the AFDC regulations (45 CFR 233.34(d)) provide the State agency with a broader suspension option. The AFDC regulations allow the State agency to suspend, rather than terminate, when: (1) The State agency has reason to believe that ineligibility will last only one month; and (2) the ineligibility for that month is caused by circumstances in the corresponding budget month.

The Department agrees with these commenters that State agency flexibility should be increased by allowing suspension procedures based on a wider range of changes in household circumstances. Therefore, the final rule has been revised to be more consistent with AFDC. However, the final rule does not permit suspension for households which fail to submit a monthly report by the extended filing date. The Department encourages State agencies to limit the types of changes that will allow a household to be suspended to those which are most likely to cause only temporary ineligibility. Suspension procedures, as opposed to termination procedures, would prove administratively burdensome and costly if extended to a household with a change in circumstances that is unlikely to be reversed in the next month. (See 7 CFR 273.21(n)(1).)

Two commenters recommended that State agencies be allowed to suspend a household's issuance for longer than one month. One recommended that suspension for three months be permitted. The other suggested permitting suspension through the end of the household's certification period. The Department has rejected these recommendations because the change would lead to administrative complication and error, as households would continue to be certified and submit monthly reports through long periods of ineligibility. The purpose of suspension is to accommodate households which will only be ineligible for a very short period of time. Suspension limited to one month serves this purpose.

Resumption of participation. During the training sessions conducted on the interim rule, participants described a problem with the suspension option which is best explained with the following example. In the monthly report submitted in early May, a household reports that it anticipates that it will receive a fifth pay check that month. The State agency has not elected to convert weekly income to a monthly amount, and the extra pay check makes the household prospectively ineligible for May. The State agency may suspend, rather than terminate, the household for May. When the household submits the next montly report in early June, it indicates that the household in fact did receive the extra paycheck in May, but that in June it will return to its normal four check income. Under the interim rule, the retrospective calculation of benefits would find the household

ineligible for benefits for a second month. That is, the household would be prospectively ineligible in May and retrospectively ineligible for benefits in a subsequent month (June in a one-month system or July in a two-month system). As a result, the suspension would unavoidably result in two months of ineligibility based on one month extra income. On the other hand, if the State agency terminated, rather than suspended, the household in May, the household could reapply for June and, if considered a serious hardship case, be eligible for benefits in June on a prospective basis. Thus, suspension would cause two months of ineligibility, where termination would cause only one month of ineligibility.

This same problem (two months ineligibility for one month's extra income) could result from a termination. In the above example, if the State agency terminated the household in May and the household reapplied in June but was not considered a serious hardship case, the State agency would calculate benefits retrospectively. The May income would, therefore, cause ineligibility for benefits for May *and* for June or July, depending on whether it is a one-month or a two-month system.

These results were not intended. Therefore, the final rule includes a provision which, following the example above, requires that the State agency disregard the extra paycheck when the month of suspension or termination becomes the budget month for the calculation of benefits. This disregard in the calculation of benefits shall apply to other noncontinuing changes in circumstances which resulted in a suspension or termination. This change is consistent with provisions in the AFDC regulations at 45 CFR 233.35(b). (See 7 CFR 273.21(o).)

Notices

General. Comment on the interim rule indicated some confusion regarding the circumstances under which a notice to the household is required. The following list indicates what circumstances require notices in the MRRB system when such notices are due.

1. *Late or incomplete monthly reports.* The notice must be mailed to the household within five calendar days of the regular due date for the monthly report. If the notice is for an incomplete report, it must explain what the household must do to complete the report. The notice must also specify the extended filing date for the monthly report, providing at least 10 more calendar days from the date this notice is mailed. The notice must explain that the household will be terminated if it fails to submit a complete monthly report by the extended filing date.

2. *Missing verification.* If verification is needed to support a household's claim to a deductible expense or to support other information relevant to the eligibility or benefit determination, a notice identifying what is missing must be sent to the household. The timeframes for this notice are the same as for a notice for a late or incomplete monthly report.

3. *Change in benefit level.* This notice must be sent to the household so that it will be received no later than the date the household is to receive its allotment. If the change in benefit level is based on a monthly report which was submitted or completed late, but by the extended filing date, the notice is due to the household by the household's later allotment date (i.e., the date the allotment would otherwise be due plus ten calendar days). This notice shall provide specific information on how the State agency calculated the benefit level.

4. *Termination.* Termination notices are due to the household by the date the household would otherwise receive its allotment. If the termination is based on a timely and complete monthly report, the notice is due by the date the household normally would receive its allotment. If the termination is based on a later or incomplete report, the notice is due to the household by its later allotment date. The notice must explain the reason for the termination. The notice also must inform the household that it must reapply in order to receive food stamp benefits in the future (unless the State agency has adopted a policy allowing reinstatement based on later submission of the monthly report or the household has requested a fair hearing).

5. *Suspension.* The suspension notice is subject to the same due dates as the termination notice. If it is based on a timely report, it is due to the household by the normal allotment date. If the notice is based on a report that is submitted late, but before the extending filing date, it is due to the household by the late allotment date. The notice must explain the reason for the suspension and that the household must continue to submit monthly reports to be reinstated. The notice also must explain that the household will be terminated if it is still ineligible in the next month.

Adequate notice. The interim rule provided for adequate notice to the household with regard to changes in the household's eligibility status or benefit level based on information submitted in the monthly report. The adequate notice is due to the household by the date the household receives its allotment, or in place of the allotment, if the household is being terminated or suspended. Other notices are due in advance of the change the notice announces.

The preamble to the interim rule, at 47 FR 22686, included an extensive discussion of the adequate notice provisions. Readers interested in the legal background of the provisions may wish to refer to the preamble. In particular, the Department directs those commenters who questioned the legality of the adequate notice system to that discussion. In addition, the Department points out that since the interim rule was published, Congress enacted a change in Section 11(e)(10) of the Food Stamp Act (Section 171 of Pub. L. 97-253) which specifically authorizes the use of adequate notices. The Department issued an interim rule which discusses this change as it affects notices outside of the MRRB system on December 14, 1982, at 47 FR 55903.

The statute now provides that whenever a change is based on clear written information submitted by the household, such as a signed monthly report, the State agency may take immediate action to reduce or terminate the household's benefits. The State agency is permitted to notify the household of an adverse action based on such information as late as the date on which the household is scheduled to receive its next allotment. Advance notice (i.e., notice in advance of the adverse action) is still required for changes that are not based on clear written information provided by the household. Examples of changes requiring advance notice include those based on information provided over the telephone, through wage matching, or by a third party.

The provisions for adequate notice of immediate adverse action are not limited to information submitted on monthly report forms. Any other clear written information provided by the household may be the basis for immediate adverse action, including information submitted to the State agency in connection with other programs such as AFDC, GA, etc.

Two notice system. As described above, the interim rule required a notice to the household if monthly report is late or incomplete. If the household submits a report indicating that it is no longer eligible or fails to submit a complete monthly report by the extended filing date specified in that notice, the State agency is required to send a second notice to terminate or suspend the household. (Suspension is not an option for households which fail to submit a

complete monthly report by the extended filing date.)

One commenter recommended that the final rule change these notice provisions to combine the two notices into one. This combined notice would both inform the household that its monthly report is late or incomplete and tell the household that if it fails to submit the report by the extended filing date, it will be terminated. No second notice would be provided.

The Department recognizes that this recommendation would reduce the number of notices the State agency would be required to send out. In addition, the change would make the Food Stamp Program notice system more like that of AFDC. However, the two month system was developed to conform to the requirements of the statute. Section 6(c)(2)(D) of the Food Stamp Act requires that the household "be afforded prompt notice of failure to file any report timely or completely, and given a reasonable opportunity to cure that failure (with any applicable time requirements extended accordingly) and to exercise its rights under section 11(e)(10) of this Act." This statutory provision requires that a notice be provided promptly when the normal due date has passed, and that the notice provide an extended filing date. The Department continues to believe that a second notice (a notice of termination) should be provided after the close of the extended filing period, to inform the household of the precise reason for the termination and about its right to request a fair hearing. For this reason, the final rule retains the requirement for a two notice system.

Fair Hearings and Continuation of Benefits

Several commenters recommended that the final rule address the issue of the household's right to a fair hearing and continued benefits when the household has failed to submit a monthly report. A few of these commenters suggested that neither a fair hearing nor continued benefits should be allowed a household which has failed to report. Other commenters argued that if a household makes a timely request for a fair hearing, the fair hearing and continued benefits should be required. Commenters on both sides of this issue raised arguments that the statute requires the approach they preferred.

The interim rule did not specifically address this question. However, after publication of the interim rule, the Department issued guidance to State agencies with regard to continued benefits (Policy Memorandum No. 82–18, June 18, 1982). State agencies were instructed that, generally, a household which has failed to submit a monthly report is not entitled to continued benefits. The guidance suggested that for households which claim to have submitted the monthly report, the State agency should consider issuing continued benefits on a case-by-case basis.

One commenter pointed out that under this policy, a State agency might deny continued benefits to a household which in fact submitted a monthly report, but the report was lost in the mail or in the local office. While such losses would be unusual, they represent a real possibility. The Department agrees with the commenter who suggested that it would be inequitable to deny continued benefits in such cases. In addition, such a denial would conflict with Section 6(c)(2)(D) of the Food Stamp Act, which provides that the household shall "* * * be afforded prompt notice of failure to file any report timely or completely * * * and to exercise its rights under section 11(e)(10) of this Act." Section 11(e)(10) establishes the household's right to both fair hearing and the continuation of benefits.

For these reasons, Policy Memorandum No. 82–18 has been rescinded. Households which make a timely request for a fair hearing and claim to have submitted the monthly report by the final due date shall receive continued benefits until the fair hearing is completed and an adverse decision rendered or until the household's certification period expires, whichever comes first. Such continued benefits will only be provided if the household submits a new complete monthly report for the month in question and for the subsequent months of the certification period. During such continuation of benefits, the household is required to continue submitting monthly reports. However, if the household admits that it failed to submit the monthly reporting by the final due date or the household has been determined ineligible on other information, and the household does not dispute that determination, continued benefits shall not be provided. The Department emphasizes that if benefits have been continued and the termination for failure to report is upheld by the fair hearing decision, a claim against the household must be established for the overissued benefits. (See 7 CFR 273.21(p)(2)(i).)

Recertification

The interim rule provided two options for recertifying households required to report monthly. Under the first option, the State agency would provide the household with a recertification form to be submitted in lieu of the monthly report form, at the beginning of the last month of the certification period. Under the second option, the State agency would provide the household with the regular monthly report form plus an addendum, also to be submitted at the beginning of the last month of the certification period. The addendum would solicit the required information affecting eligibility and allotments not included on the regular monthly report form. Under either option, the State agency was required to interview the household at some time during the last month of the certification period. These options were designed to integrate the monthly reporting procedure and to limit the number of required submissions.

One commenter suggested that the final rule provide a third option which would allow recertification based on the monthly report and interview, without a recertification addendum. The Department has decided to allow this option with the stipulation that the State agency must have on record, at a minimum, a signed statement that household has reapplied for benefits. The Department believes that such a written record is an important part of the household's case file. As with the other recertification options, all of the information required for a recertification would have to be collected under this option.

Regulatory Flexibility Analysis

Need for Action

Sections 107 and 108 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, require the Department to implement a monthly reporting and retrospective budgeting (MRRB) system in the Food Stamp Program. Implementation of MRRB must be accomplished by January 1, 1984. This action amends the Program's regulations for that purpose.

The Department issued an interim rule on MRRB on May 25, 1982, at 47 FR 22684. A total of 42 comments on the interim rule were received during the 90 day comment period. In addition, the Department has received a substantial amount of input regarding MRRB during training sessions and regional and national conferences. The Department considered all of the comments and recommendations in developing this final rule.

The Department had three major areas of concern in developing the final rule. These areas were: (1) To establish MRRB requirements as consistent as possible with the MRRB requirements of

the Aid to Families with Dependent Children Program (AFDC); (2) to ensure the integrity and accountability of the Food Stamp Program; and (3) to increase State agency flexibility. The issues discussed below highlight these concerns and explain the solutions provided in the final rule.

Justification of Alternatives

The following issues raised by commenters were of significant concern in preparing the final MRRB rule.

a. *Handling of households already participating in a two-month budgeting system which gain a new member in the processing month.* The interim rule provided that participating households which gain a member in the processing month (the month between the budget month and issuance month in which all paperwork containing retrospective information about the household is processed for determining eligibility and benefits), shall have their eligibility and benefits determined by obtaining retrospective information on the new member and combining such information with the retrospective information already available on the other members. Several commenters complained that this provision is not consistent with AFDC procedures. In AFDC, the eligibility and benefits in such a case would be determined by obtaining prospective information for the new member and then combining this information with the retrospective information already available on the other members. The Department chose to adopt the AFDC procedure to resolve this issue. Adoption of the AFDC procedure establishes a consistent system for the two programs and simplifies administration of both systems for State agencies.

b. *Handling of household members which move from one food stamp household to another during the processing month in a two-month system.* This issue was not addressed in the May 25, 1982 interim rule. Several commenters pointed out that if a member leaves one food stamp household to join another food stamp household, both households could conceivably receive benefits for this member. The Department agreed with commenters that such double benefits must be prevented. To accomplish this objective, the individual must be counted in only one of the food stamp households. The Department considered three options: (1) Require the State agency to take action against the household losing the member; (2) require the State agency to take action to not include the new member in the household gaining the member; or (3) allow the State agency to take either one of these actions. The Department decided to use option (3) because it would allow the State agency maximum flexibility, yet still prevent the double issuance of benefits.

c. *Time limit for issuing benefits in a two-month system.* The interim rule provides that benefits must be issued within 45 days after the end of the budget month (the past month on which a future allotment will be based). If a household is late filing a report, but does file by the extended deadline for late reports, the rule provides that the household must be issued benefits no later than 10 days after the normal issuance date, but in no event later than the initial maximum 45-day time limit imposed for issuances. Commenters pointed out that in some States the normal issuance date may be as late as the 15th day of the month, and the 45-day limit would require the State agencies to issue benefits to the household by the normal issuance date even when the report is submitted late. Thus, it was necessary for the Department to decide whether to retain the 45-day timeframe or remove it. The Department decided to remove the 45-day limit to increase State agency flexibility and simplify administration of the system.

Implementation

State agencies shall implement MRRB no later than January 1, 1984. The first budget month shall be no later than January 1984 for all affected households. The interim rule's provisions requiring State agencies to conduct MRRB pretests have been removed since the pretest phase has already concluded and full implementation must proceed. However, the changes in the interim provisions made by this final rule need not be implemented on January 1, 1984. The changes made by this final rule shall be implemented no later than May 1, 1984.

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List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs.

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social Security, Students.

Amendment

For the reasons set out in the preamble, Parts 271, 272, and 273 of Subchapter C, Chapter II of Title 7, Code of Federal Regulations, are amended as set forth below.

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.2 [Amended]

1. In § 271.2, insert the following in alphabetical order:

"Adequate notice" in a Monthly Reporting and Retrospective Budgeting system means a written notice that includes a statement of the action the agency has taken or intends to take; the reason for the intended action; the household's right to request a fair hearing; the name of the person to contact for additional information; the availability of continued benefits; and the liability of the household for any overissuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household. Depending on the timing of a State's system and the timeliness of report submission by participating households, such notice may be received prior to agency action, at the time reduced benefits are received, or, if benefits are terminated, at the time benefits would have been received if they had not been terminated. In all cases, however, participants will be allowed ten days from the mailing date of the notice to contest the agency action and to have benefits restored to their previous level. If the 10-day period ends on a weekend or a holiday and a request is received the day after the weekend or holiday, the State agency shall consider the request to be timely.

"Beginning month(s)" in a Monthly Reporting and Retrospective Budgeting system means either the first month for which the household is certified for food stamps (where the State agency has adopted a one month accounting system) or the first month for which the household is certified for food stamps and the month thereafter (where the State agency has adopted a two month accounting system). For a household which applies for food stamps at the same time that it applies for AFDC and is eligible in both Programs, the State agency may extend the household an additional beginning month if necessary, to coincide with the household's AFDC budgeting system. Except for beginning

months in sequence as described in the preceding sentences, a beginning month cannot be any month which immediately follows a month in which a household is certified.

"Budget month" in a Monthly Reporting and Retrospective Budgeting system means the fiscal or calendar month from which the State agency uses income and other circumstances of the household to calculate the household's food stamp allotment to be provided for the corresponding issuance month.

"Issuance month" in a Monthly Reporting and Retrospective Budgeting system means the fiscal or calendar month for which the State agency shall issue a food stamp allotment. Issuance is based upon income and circumstances in the corresponding budget month. In prospective budgeting, the budget month and issuance month are the same. In retrospective budgeting, the issuance month follows the budget month and the issuance month shall begin within 32 days after the end of the budget month.

"Prospective budgeting" in a Monthly Reporting and Retrospective Budgeting system means the computation of a household's food stamp allotment for an issuance month based on an estimate of income and circumstances which will exist in that month.

"Retrospective budgeting" in a Monthly Reporting and Retrospective Budgeting system means the computation of a household's food stamp allotment for an issuance month based on actual income and circumstances which existed in a previous month, the "budget month."

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PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, paragraph (g)(36) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(36) Amendment 259. State agencies may implement this Monthly Reporting and Retrospective Budgeting rule at any time, but shall implement this rule no later than January 1, 1984. Prior to January 1, 1984, this rule may be implemented State-wide, in only part of a State (such as in certain project areas), or for only certain reasonable classifications of households (such as for only households receiving Aid to Families with Dependent Children) so long as the implementation is completed by January 1, 1984. State agencies shall have begun to send monthly reports to households so that they can report their January 1984 circumstances in accordance with § 273.21(h). However, the changes in the interim provisions made by this final rule need not be implemented on January 1, 1984. The changes made by this final rule shall be implemented no later than May 1, 1984. Unless otherwise specified in § 273.21 of this chapter, all other food stamp regulations shall apply to State agencies and to applying or participating households.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In Part 273, new § 273.21 is added to read as follows:

§ 273.21 Monthly Reporting and Retrospective Budgeting (MRRB).

(a) *System design.* This section provides for an MRRB system for determining household eligibility and benefits. For included households, this system replaces the prospective budgeting system provided in the preceding sections of this Part. The MRRB system provides for the use of retrospective information in calculating household benefits, normally based on information submitted by the household in monthly reports. The State agency shall establish an MRRB system as follows:

(1) In establishing either a one-month and a two-month MRRB system, the State agency shall use the same system it uses in its AFDC Program unless it has been granted a waiver by FNS. Differences between a one-month and a two-month system are described in paragraph (d) of this section.

(2) The State agency shall determine eligibility, either prospectively or retrospectively, on the same basis that it uses for its AFDC program, unless it has been granted a waiver by FNS.

(3) The household shall be certified for a continuous period of up to twelve months, but for no less than six months.

(b) *Included and excluded households.* An MRRB system shall include all households except as follows:

(1) *Retrospective budgeting.* The State agency shall exclude migrant farmworker households from retrospective budgeting as long as the households are in the migrant job stream. In addition, households which the State agency has determined would otherwise experience serious hardship in accordance with paragraph (g)(1) of this section shall be excluded from retrospective budgeting during their beginning months of participation.

(2) *Monthly reporting.* (i) The State agency shall exclude the following households from monthly reporting:

(A) Migrant farmworker households while they are in the migrant job stream; and

(B) Households without earned income whose adult members are all elderly or disabled.

(3) *Special assistance.* The State agency shall provide special assistance in completing and filing monthly reports to households whose adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required reports.

(c) *Information on MRRB.* At the certification interview, the State agency shall provide the household with the following:

(1) An oral explanation of the purpose of MRRB;

(2) A copy of the monthly report and an explanation of how to complete and file it;

(3) An explanation of what the household shall verify when it submits a monthly report and how it will verify it;

(4) The telephone number (toll free for households outside the local calling area) which the household may call to ask questions or to obtain help in completing the monthly report; and

(5) Written explanations of this information.

(d) *One and two-month systems.* Each State agency shall adopt either a one-month or two-month MRRB system. A one month system shall have one beginning month in the certification period and a two-month system shall have two beginning months, except that for a household which has applied for food stamps and AFDC at the same time the State agency may allow an additional beginning month if necessary to coincide with the AFDC budgeting system. Except for beginning months in sequence as described in the preceding sentence, the State agency shall not consider as a beginning month any month which immediately follows a month in which a household is certified.

(1) *One-month system.* In the one-month system, the issuance month immediately follows its corresponding budget month. There is one beginning month of participation in this system, the first month for which the household is certified, except when an additional beginning month is provided in accordance with introductory paragraph (d) of this section. The month preceding the first month for which the household is certified shall be the first budget month.

(2) *Two-month system.* In the two-month system, the issuance month is the second month following its corresponding budget month. There are two beginning months of participation in this sytem, the first month and the following month, except when and additional beginning month is provided in accordance with introductory paragraph (d) of this section.

(e) *Determining eligibility for households not certified under the serious hardship provisions of § 273.21(g).* The State agency shall determine eligibility consistent with paragraph (a)(2) of this section and in accordance with either of the following options.

(1) *Prospective eligibility.* The State agency shall determine eligibility by considering all factors of eligibility prospectively for each of the issuance months.

(2) *Retrospective eligibility.* The State agency shall determine eligibility by considering all factors of eligibility retrospectively using the appropriate budget month.

(f) *Calculating allotments for households not suffering serious hardship.*

(1) *Household composition.*

(i) If eligibility is determined retrospectively the State agency shall determine the household's composition as of the last day of the budget month.

(ii) If eligibility is determined prospectively (such as for serious hardship cases or households processed under paragraph (e)(1) of this section), the State agency shall determine the household's composition as of the issuance month.

(iii) In a two-month system, the following provisions shall apply with regard to a household which reports, in the month between the budget month and the corresponding issuance month, that it has gained a new member.

(A) The State agency shall use the same household composition for determining the household's eligibility that it uses for calculating the household's benefit level.

(B) If the new member is not already certified to receive food stamps in another household participating within the State, the new member's income, deductible expenses, and resources from the issuance month shall be considered in determining the household's eligibility and benefit level.

(C) If the individual has moved out of one household receiving food stamps within the State and into another, with no break in participation, the State agency shall use the individual's income, deductible expenses, and resources from the budget month in determining benefits to be provided in the issuance month. The State agency shall include such an individual and the individual's income, deductible expenses, and resources in determining the issuance month eligibility and benefit level of either the household from which the individual has moved or the household into which the individual has moved, but not both.

(2) *Income and deductions.* For the household members as determined in accordance with paragraph (f)(1) of this section, the State agency shall calculate the allotment using the household members' income and deductions from the budget month, except as follows:

(i) The State agency shall annualize self-employment income which is received other than monthly, in accordance with § 273.11(a).

(ii) The State agency shall prorate income received by contract in less than one year over the period the income is intended to cover, in accordance with § 273.10(c)(3)(ii).

(iii) The State agency shall prorate nonexcluded scholarships, deferred educational loans, and other educational grants over the period they are intended to cover, in accordance with § 273.10(c)(3)(iii).

(iv) For a new household member described under paragraph (f)(1)(iii)(B) of this section, the State agency shall consider the new member's income and deductible expenses prospectively until the new member's first month living with the household becomes the budget month.

(v) The options provided under paragraph (j)(1)(vii) of this section may affect the calculation of income and deductions.

(g) *Determining eligibility and allotments in the beginning months for households suffering serious hardship.* The State agency shall use the special procedures (prospective budgeting) of this paragraph only for households who would experience serious hardship if the State agency used the budgeting procedures described in paragraph (e) and (f) of this section. (For all other households, the State agency shall use the procedures in paragraphs (e) and (f) of this section).

(1) *Households which suffer serious hardship.* A household suffers serious hardship from retrospective budgeting if:

(i) It has gained or expects to gain a new household member in the month of application or in the month prior to the month of application; or

(ii) It is entitled to expedited service, determined prospectively, for the month of application, in accordance with § 273.2(i); or

(iii) It is a migrant farmworker household which has returned to its home base from the migrant job stream in the month of application or the prior month; or

(iv) It would otherwise experience a serious hardship as defined by the State agency; provided that

(v) The household has not deliberately caused a reduction in its own income through participation in a strike, quitting a job, or reducing its wages; and

(vi) The household's income has not been reduced to recover prior overpayments for an intentional violation or inadvertent household error in assistance programs such as, but not limited to, Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC) and General Assistance (GA).

(2) *Determining eligibility for serious hardship cases.* The State agency shall determine eligibility prospectively in the beginning month(s).

(3) *Calculating allotments for serious hardship cases.* the State agency shall calculate allotments prospectively in the beginning month(s).

(4) *The first months of retrospective budgeting for serious hardship cases.* The State agency shall begin to base issuances to the household on retrospective budgeting during the first month for which the State's system can use the month of application as a budget month. In a one-month system, the first month for which the issuance is based on retrospective budgeting shall be the second month of participation. In a two-month system, the first month for which the issuance is based on retrospective budgeting shall be the third month of participation. However, if the State agency has extended the household an additional beginning month as allowed under paragraph (d) of this section, the first month of retrospective budgeting shall be the third month of participation in a one-month system or the fourth month of participation in a two-month system. For the purposes of this paragraph, any income that the household received in a beginning month from a source which no longer provides income to the household (income from a terminated source) which was included in the household's prospective budget shall be disregarded when the the beginning month becomes the budget month. Such income from a terminated source shall be disregarded for no more than one month.

(h) *The monthly report form.*—(1) *General.* (i) The State agency shall give the household a reasonable period of time after close of the budget month to submit the monthly reports.

(ii) The State agency shall require each household in the MRRB system to report on household circumstances on a monthly basis as a condition of continuing eligibility.

(iii) The State agency shall provide an individual or agency unit which a household may contact to receive prompt answers about the completion of the form. A telephone number (toll free for households outside the local calling area) which a household may use to obtain further information shall also be available.

(iv) The State agency shall ensure that households are informed about the availability and amount of the standard utility allowances, if the State agency offers them.

(2) *Monthly report form.* The State agency's monthly report form shall meet the following requirements:

(i) Be written in clear, simple language;

(ii) Meet the bilingual requirements described in § 272.4(c) of this chapter;

(iii) Specify the date by which the agency must receive the form and the consequences of a late or incomplete form, including whether the State agency shall delay payment if the form is not received by the specified date;

(iv) Specify the verification which the household must submit with the form, in accordance with § 273.21(i);

(v) Identify the individual or agency unit available to assist in completing the form;

(vi) Include a statement to be signed by a member of the household, indicating his or her understanding that the provided information may result in changes in the level of benefits, including reduction and termination;

(vii) Include, in prominent and boldface lettering, an understandable description of the Act's civil and criminal penalties for fraud.

(viii) If the form requests Social Security numbers, include a statement of the State agency's authority to require Social Security number (SSN's) (including the statutory citation, the title of the statute, and the fact that providing SSN's is mandatory), the purpose of requiring SSN's, the routine uses for SSN's, and the effect of not providing SSN's. This statement may be on the form itself or included as an attachment to the form.

(3) *Reported information.* The State agency shall require, and the household shall report on a monthly basis, the following information about the household:

(i) Budget month income, medical, dependent care and shelter expenses, household composition, and other circumstances relevant to the amount of the food stamp allotment.

(ii) Any changes in income, medical, dependent care and shelter expenses, resources or other relevant circumstances affecting eligibility which the household expects to occur in the current month or in future months, or which occurred in the budget month.

(iii) Income and resources of an alien's sponsor and sponsor's spouse, where appropriate.

(iv) If the State agency uses a combined monthly report for food stamps and AFDC, the State agency shall clearly indicate on the form that non-AFDC food stamp households need not provide AFDC-only information.

(i) *Verification.* The State agency shall require the household to verify information on the monthly report as follows:

(1) Each month the household shall verify gross nonexempt income (except for unearned income which has not changed since the preceding monthly report), utility expenses (unless the household is using the standard utility allowance in accordance with § 273.9(d)), medical expenses, and all questionable information.

(2) The household shall verify alien status, social security numbers, residency, and citizenship, if these items have changed since the last report.

(3) The State agency may require the household to verify any other information on the monthly report.

(j) *State agency action on reports.*—(1) *Processing.* Upon receiving monthly report, the State agency shall:

(i) Review the report to ensure accuracy and completeness.

(ii) Consider the report incomplete only if:

(A) It is not signed by the head of the household, an authorized representative or a responsible member of the household;

(B) It is not accompanied by verification of reported earned income; or

(C) It omits information necessary either to determine the household's eligibility or to compute the household's level of food stamp benefits.

(iii) Determine those items which will require additional verification, in accordance with paragraph (i) of this section.

(iv) Contact the household directly, and take action as needed, to obtain further information on specific items. These items include:

(A) The effect of a reported change in resources on a household's total resources; and

(B) The effect of a reported change in household composition or loss of a job or source of earned income on the applicability of the work registration requirement.

(v) Notify the household, in accordance with paragraph (j)(3)(ii) of this section, of the need to submit a report, correct an incomplete or inaccurate report, or submit the necessary verification within the extension period.

(vi) Determine the household's eligibility by considering all factors, including income, in accordance with paragraphs (e) or (g) of this section.

(vii) Determine the household's level of benefits in accordance with § 273.10(e) based on the household composition determined in accordance with paragraph (f)(1) of this section. For those household members the following (except as provided in paragraph (f)(2) of this section) income and deductions shall be considered:

(A) Earned and unearned income received in the corresponding budget month or that has been averaged for the corresponding budget month. The State agency has the option of converting to a regular monthly amount the income that a household receives weekly or biweekly;

(B) The PA grant paid in the corresponding budget month or the PA grant to be paid in the issuance month. If the State agency elects to use the PA grant to be paid in the issuance month, the State agency shall ensure that: (*1*) Any additional or corrective payments are counted, either prospectively or retrospectively; and (*2*) the State agency shall disregard income received in the budget month from a terminated source, provided the household has reported the termination of the income either in the monthly report for the budget month or in some other manner which, as determined by the State agency, allows the State agency sufficient time to process the change and affect the allotment in the issuance month.

(C) Deductions as billed or averaged from the corresponding budget month, including those shelter costs billed less often than monthly which the household has chosen to average.

(viii) Issue benefits in accordance with Part 274 of this chapter and on the time schedule set forth in paragraph (k) of this section.

(ix) Provide specific information on how the State agency calculated the benefit level if it has changed since the preceding month, either with the issuance or in a separate notification.

(2) *Notices.* (i) All notices regarding changes in a household's benefits shall meet the definition of adequate notice as defined in § 271.2.

(ii) The State agency shall notify a household of any change from its prior benefit level and the basis for its determination. If the State agency reduces, suspends or terminates benefits, it shall send the notice so the household receives it no later than either the date resulting benefits are to be received or in place of the benefits.

(iii) The State agency shall notify a household, in accordance with paragraph (j)(3)(iii), if its monthly report is late or incomplete, or further information is needed.

(3) *Incomplete filing.* (i) If a household fails to file a monthly report, or files an incomplete report, by the specified filing date, the State agency shall give the household at least ten more days, from the date the State agency mails the notice to file a complete monthly report.

(ii) The State agency shall notify the household within five days of the filing date:

(A) That the monthly report is either overdue or incomplete;

(B) What the household must do to complete the form;

(C) If any verification is missing and the lack of that verification will adversely affect the household's allotment;

(D) That the Social Security number of a new member must be reported, if the household has reported a new member but not the new member's Social Security number;

(E) What the extended filing date is;

(F) That the State agency will assist the household in completing the report.

(iii) If a household does not provide required verification, the State agency shall take the following actions:

(A) If the household does not verify earned income, the State agency shall regard the household's report as incomplete, take action in accordance with paragraphs (j)(3)(i) and (j)(3)(ii) of this section and, if appropriate, terminate the household in accordance with paragraph (m) of this section;

(B) If the household is using its actual utility costs to establish its shelter cost deduction in accordance with § 273.9(d) and it does not verify its actual utility expenses, the State agency shall not allow a deduction for such costs;

(C) If the household does not verify medical expenses, the State agency shall not allow a deduction;

(D) If the household does not verify other items for which verification is required, the State agency shall:

(*1*) Act on the reported change if it would decrease benefits.

(*2*) Not act on the reported change if it would increase benefits.

(k) *Issuance of benefits.*—(1) *Timely issuance.* (i) For an eligible household which has filed a complete monthly report by the scheduled filing date, the State agency shall provide an opportunity to participate within the month following the budget month in a one-month system, or within the second month following the budget month in a two-month system.

(ii) The State agency shall provide each household with an issuance cycle so that the household receives its benefits at about the same time each month and has an opportunity to participate before the end of each issuance month.

(2) *Delayed issuance.* (i) If an eligible household files a complete monthly report during its extension period, the State agency shall provide it with an opportunity to participate no later than ten days after its normal issuance date.

(ii) If an eligible household which has been terminated for failure to file a complete report files a complete report after its extended filing date, but before the end of the issuance month, the State agency may choose to reinstate the household by providing it with an opportunity to participate.

(iii) If an eligible household files a complete report after the issuance month, the State agency shall not provide the household with an opportunity to participate for that month.

(l) *Other reporting requirements.*—(1) *Households which file monthly reports.* The State agency shall not require these households to submit any reports of changes other than the monthly reports which paragraph (h) of this section requires.

(2) *Households excluded from monthly reporting.* Households which are excluded from monthly reporting shall report changes in accordance with § 273.12.

(m) *Termination.* (1) The State agency shall terminate a household's food stamp participation if the household:

(i) Is ineligible for food stamps, unless suspended in accordance with paragraph (n) of this section:

(ii) Fails to file a complete report by the extended filing date; or

(iii) Fails to comply with a nonfinancial eligibility requirement, such as registering for employment.

(2) The State agency shall issue a notice to the household which:

(i) Complies with the requirements of § 271.2 for adequate notice;

(ii) Informs the household of the reason for its termination;

(iii) If the State agency allows reinstatement under paragraph (k)(2)(ii), explains how the household may be reinstated;

(iv) Informs the household of its rights to request a fair hearing and to receive continued benefits.

(3) The State agency shall issue the notice to the household so that it receives the notice no later than the household's normal or extended issuance date.

(n) *Suspension.* The State agency may suspend a household's issuance in accordance with this paragraph. If the State agency does not choose this option, it shall instead terminate households in accordance with paragraph (m) of this section.

(1) The State agency may suspend a household's issuance for one month if the household becomes temporarily ineligible due to a periodic increase in recurring income or other change not expected to continue in the subsequent month.

(2) The State agency shall continue to supply monthly reports to the household for one month.

(3) If the suspended household again becomes eligible, the State agency shall issue benefits on the household's normal issuance date.

(4) If the suspended household does not become eligible after one month, the State agency shall terminate the household.

(o) If a household has been terminated or suspended based on an anticipated change in circumstances, the State agency shall not count any noncontinuing circumstances which caused the prospective ineligibility when calculating the household's benefits retrospectively in a subsequent month.

(p) *Fair hearings.*—(1) *Entitlement.* All households participating in a MRRB system shall be entitled to fair hearings in accordance with § 273.15.

(2) *Continuation of benefits.* (i) Any household which requests a fair hearing and does not waive continuation of benefits, and is otherwise eligible for continuation of benefits, shall have its benefits continued until the end of the certification period or the resolution of the fair hearing, whichever is first. However, if the State agency did not receive a monthy report from the household by the extended filing date and the household admits that it did not submit such a monthy report, the household shall not have its benefits continued.

(ii) The State agency shall provide continued benefits no later than five working days from the day it receives the household's request.

(iii) A household whose benefits have been continued shall file montly reports until the end of the certification period.

If the fair hearing is with regard to termination for non-receipt of the monthly report by the State agency, then a new, complete monthly report for the month in question shall be submitted by the household before benefits are continued.

(iv) During the fair hearing period the State agency shall adjust allotments to take into account reported changes, except for the factor(s) on which the fair hearing is based.

(q) *Recertification.*—(1) *Timeliness.* The State agency shall recertify an eligible household which timely reapplies and provides it with an opportunity to participate in the household's normal issuance cycle.

(2) *Retrospective Recertification.* (i) The State agency shall recertify the household using retrospective information to determine the household's benefit level for the first month of the new certification period.

(ii) If the State agency is operating a two-month MRRB system, the State agency may delay reflecting information from the recertification interview in the household's eligibility and benefit level until the second month of the new certification period.

(iii) The State agency shall recertify households according to one of the three options set forth in paragraphs (q) (3), (4), or (5) of this section.

(3) *Option One: Recertification form.* (i) The State agency shall provide each household with a recertification form to obtain all necessary information about the household's circumstances for the budget month.

(ii) The State agency shall mail the form to the household, along with a notice of expiration, in place of the monthly report form.

(iii) The household shall submit the form to the State agency in accordance with paragraph (h)(1)(i) of this section.

(4) *Option Two: Monthly report and addendum.* (i) The State agency shall provide each household with a notice of expiration and monthly report form and an addendum to obtain all additional information necessary for recertification.

(ii) The State agency shall mail the monthly report form to the household along with the notice of expiration.

(iii) The household shall submit the monthly report to the State agency in accordance with paragraph (h)(1)(i) of this section.

(iv) The State agency shall deliver the recertification addendum to the household along with the monthly report form or obtain the necessary information from the household at the interview.

(v) The household shall submit the addendum to the State agency no later than the time of the interview.

(5) *Option Three: Signed Statement.* (i) The State agency shall recertify households based on the monthly report and the interview.

(ii) At the interview, the State agency shall obtain all of the information not provided in the monthly report which is necessary for recertification.

(iii) The State agency shall ensure that it has on file a statement signed by the appropriate household member that the household has applied for recertification.

(6) *Interview.* (i) The State agency shall conduct a complete interview with a household member or an authorized representative.

(ii) The State agency shall schedule the interview at any time during the last month of the old certification period.

(iii) If the State agency schedules the interview for a date on or before the normal filing due date of the monthly report, the State agency shall permit the household member and authorized representative to bring the recertification form or monthly report to the interview.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: December 2, 1983.

Mary C. Jarratt,

Assistant Secretary, Food and Consumer Services.

[FR Doc. 83-32680 Filed 12-7-83; 8:45 am]

BILLING CODE 3410-30-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2752]

TEAC Corp. of America; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified the order issued against TEAC Corporation of America on Oct. 24, 1975 (40 FR 56658) to allow the company to prevent transshipment of its products to dealers who do not meet reasonable, non-discriminatory standards of promotion, service and display.

DATES: Consent Order issued Oct. 24, 1975. Modifying Order issued Nov. 25, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Selig Merber, Washington, D.C. 20580. (202) 634–4642.

SUPPLEMENTARY INFORMATION: In the Matter of TEAC Corporation of America, a corporation. Codification appearing at 40 FR 56658 remains unchanged.

List of Subjects in 16 CFR Part 13

Electronics products, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Before Federal Trade Commission

[Docket No. C-2752]

Order Modifying Cease and Desist Order Issued on October 24, 1975

In the matter of TEAC Corporation of America, a corporation.

On October 24, 1975, the Federal Trade Commission ("Commission") issued an order against TEAC Corporation of America ("TEAC") in Docket No. C-2752, 86 F.T.C. 981 (1975), prohibiting TEAC from, among other things, restricting or limiting in any manner the customers or classes of customers to whom dealers may sell TEAC's products.

On March 8, 1983, the Commission issued a modified order in *U.S. Pioneer Electronics Corporation*, Docket No. C-2755, allowing Pioneer (one of TEAC's competitors) to prevent transshipment of its products to dealers who do not meet reasonable, non-discriminatory standards of promotion, service and display. The initial *Pioneer* order contained the same provisions that are contained in the TEAC order. Both orders contain a most favored respondent clause pursuant to which the Commission may modify the respective orders in order to bring them into conformity with less stringent restrictions imposed on the respondents' competitors.

On August 1, 1983, the Commission issued an order to show cause why the proceeding in Docket No. C-2752 should not be reopened to modify Paragraph I (11) of the order in this case to read as follows:

Preventing or prohibiting any independent dealer or distributor from reselling his products to any persons or group of persons, business or class of businesses, except as expressly provided herein. This order shall not prohibit respondent from establishing lawful, reasonable, and non-discriminatory minimum standards for its dealers, including standards that relate to promotion and store display, demonstration, inventory levels, service and repair, volume requirements and financial stability, nor shall this order prohibit respondent from requiring its dealers

who sell respondent's products for resale to make such sales only to dealers who maintain such minimum standards.

The proposed modification was accepted by TEAC. In view of the Commission's action in *Pioneer*, the Commission believes that this modification is in the public interest.

Accordingly, it is ordered, that this matter be, and it hereby is, reopened and that Paragraph I(11) of the order in Docket No. C-2752 be modified as indicated above.

By direction of the Commission.

Issued: November 25, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-32557 Filed 12-7-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N-0372]

GRAS Status of Stearic Acid and Calcium Stearate

Correction

In FR Doc. 83-30809 beginning on page 52444 in the issue of Friday, November 18, 1983, make the following correction on page 52445: In the third column, the "**EFFECTIVE DATE**" should read "December 19, 1983".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 9H5217/R617; FAP 9H5217/R618; and PH-FRL 2463-6]

Tolerances for Pesticides in Food and Animal Feeds Administered by the Environmental Protection Agency; Pirimiphos-Methyl

Correction

In FR Doc. 83-29876 beginning on page 51453 in the issue of Wednesday, November 9, 1983, make the following correction.

On page 51454, third column, third line of § 193.468 (b), "(*0*-[12-" should have read "(*0*-[2-".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 140

[FHWA Docket No. 83-22]

Reimbursement for Bond Issue Projects; Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document revises existing FHWA regulations that prescribe policies and procedures for the use of Federal funds by State highway agencies (SHAs) to aid in the retirement of the principal and interest of bonds. The major purpose of this action is to incorporate statutory changes resulting from the passage of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599, 92 Stat. 2698) which made interest on bonds eligible for reimbursement.

DATES: This final rule is effective December 8, 1983.

ADDRESS: Anyone wishing to submit written comments may do so. Comments should be sent to FHWA Docket No. 83-22, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey C. Wood, Office of Fiscal Services, (202) 426-0562, or Mr. S. James Wiese, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: These amendments are necessary to incorporate the provisions of Section 115 (b) and (c) of the Surface Transportation Assistance Act (STAA) of 1978 (Pub. L. 95-599). These provisions allow Federal participation in interest costs incurred by an SHA for the retirement of bonds the proceeds of which were expended in the construction of projects on the Interstate System after November 6, 1978, provided that (1) the SHA is eligible for Interstate discretionary funds during the fiscal year the bonds were issued, and (2) the Secretary of Transportation or his/her designee certifies that the SHA has utilized, or will utilize to the fullest extent possible, its authority to obligate Interstate discretionary funds. Interstate discretionary funds are provided by Section 115(a) of the STAA of 1978.

The FHWA will participate in the amount of interest expense that (1) was incurred during the time the bond proceeds were expended on the project, and (2) applies to the amount of the bond proceeds expended on the project. The interest costs cannot be claimed until the bonds mature and the project is converted to a regularly funded project.

Also, Section 107(f) of the STAA of 1982 (Pub. L. 97-424, January 6, 1983), added substitute highway projects approved under 23 U.S.C. 103(e)(4) as eligible bond issue projects.

The new provisions described above, are contained in § 140.601, § 140.602, and § 140.608. Paragraphs (b), (c), (d), and (f) in § 140.602 of the former regulation are redesignated as (c), (e), and (f), respectively, paragraph (e) is eliminated since it is redundant and not necessary, and paragraph (g) is eliminated inasmuch as the prohibition against tolls is no longer considered necessary. Former § 140.608 has been redesignated as § 140.610 and language has been added to include certification data for reimbursement of eligible bond interest.

Paragraph (d) of the new § 140.602 is added to clarify that no Federal funds are committed until the project is converted to a regular Federal-aid project. Section 140.604 has been redesignated as § 140.605 and has been rewritten to improve clarity. A new § 140.604 has been added to clarify that upon conversion to regular Federal-aid financing from other than Interstate construction funds, reimbursement of bond issue projects will be subject to a 36-month reimbursement schedule. Provision is also made for consideration of a request for a waiver at the time of conversion action. Paragraph (c) of § 140.604 of the former regulations provided for use of the appropriate reimbursement schedule. The reimbursement schedule is published as an appendix to this regulation.

A new § 140.612 has been added to provide for submission of a schedule by the SHA by July 1 of each year of anticipated bond projects to be converted during the next two fiscal years. The schedule will include anticipated claims for reimbursement. The data will be used by FHWA to assist in determining liquidating cash needed in financing anticipated conversions.

The following sections in the former regulation have been redesignated:

§ 140.605 to § 140.607, § 140.607 to § 140.609, and § 140.609 to § 140.611. In addition, the following sections in the former regulation have been reworded to improve clarity: § 140.607 (a), and (b); § 140.608 (a), (c), and (d); and § 140.609.

In addition to § 140.602 (e) and (g), other provisions are eliminated from the former regulations. Section 140.608(f) does not apply to the SHAs and is unnecessary, and § 140.608(g) made reference to requirements in the Federal-Aid Highway Program Manual.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. The economic impact of this rulemaking action will be minimal inasmuch as it is expected to affect fewer than ten SHAs in any fiscal year. Interest costs have not previously been eligible for participation and are expected to be only a minor amount of reimbursable costs when compared with total available highway funds. Accordingly, a full regulatory evaluation is not required.

The primary objective of this rulemaking action is to incorporate statutory provisions mandated by Sections 115 (b) and (c) of the STAA of 1978. For the foregoing reasons, and since the regulation imposes no additional burdens on the States, the FHWA finds good cause to make this regulation effective without prior notice and opportunity for comment and without a 30-day delay in effective date. Neither a general notice of proposed rulemaking nor a 30-day delay of the effective date is required under the Administrative Procedure Act because the matters relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2). Accordingly, the regulation is effective upon publication. However, the FHWA gives notice that comments on the procedures promulgated to administer the statutory provisions will be accepted and evaluated in determining the need for future revisions.

While the FHWA does not anticipate that there will be any useful public comment on the general issue of the statutory provisions themselves, there may be procedural comments on some provisions of the final rule. For this reason, publication of this final rule without an opportunity for prior comments, but with a request for comments following publication, is consistent with the Department of Transportation's regulatory policies.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental review of Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 140

Bonds, Grant programs—Transportation, Highways and Roads.

Issued on: November 30, 1983.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA revises Subpart F of Part 140 of Chapter I of Title 23, Code of Federal Regulations, to read as set forth below:

PART 140— REIMBURSEMENT

* * * * *

Subpart F—Reimbursement for Bond Issue Projects

Sec.

Authority: Section 115(c), Pub. L. 95–599, 92 Stat. 2698; Section. 4, Pub. L. 96–106, 93 Stat. 797 (23 U.S.C. 115(b)); 23 U.S.C. 122; 49 CFR 1.48(b).

Subpart F—Reimbursement for Bond Issue Projects

§ 140.601 Purpose.

To prescribe policies and procedures for the use of Federal funds by State highway agencies (SHAs) to aid in the retirement of the principal and interest of bonds, pursuant to 23 U.S.C. 122 and the payment of interest on bonds of eligible Interstate projects.

§ 140.602 Requirements and conditions.

(a) An SHA that uses the proceeds of bonds issued by the State, a county, city or other political subdivision of the State, for the construction of projects on the Federal-aid primary or Interstate system, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under 23 U.S.C. 103(e)(4), may claim payment of any portion of such sums apportioned to it for expenditures on such system to aid in the retirement of the principal of bonds at their maturities, to the the extent that the proceeds of bonds have actually been expended in the construction of projects.

(b) Any interest earned and payable on bonds, the proceeds of which were expended on Interstate projects after November 6, 1978, is an eligible cost of construction. The amount of interest eligible for participation will be based on (1) the date the proceeds were expended on the project, (2) amount expended, and (3) the date of conversion to a regularly funded project. As provided for in section 115(c), Pub. L. 95–599, November 6, 1978, interest on bonds issued in any fiscal year by a State after November 6, 1978, may be paid under the authority of 23 U.S.C. 122 only if (1) such SHA was eligible to obligate Interstate Discretionary funds under the provisions of 23 U.S.C. 118(b) during such fiscal year, and (2) the Administrator certifies that such eligible SHA has utilized, or will utilize to the fullest extent possible during such fiscal year, its authority to obligate funds under 23 U.S.C. 118(b).

(c) The Federal share payable at the time of conversion, as provided for in § 140.610 shall be the legal pro rata in effect at the time of execution of the project agreement for the bond issue project.

(d) The authorization of a bond issue project does not constitute a commitment of Federal funds until the project is converted to a regular Federal-aid project as provided for in § 140.610.

(e) Reimbursements for the redemption of bonds may not precede, by more than 60 days, the scheduled date of the retirement of the bonds.

(f) Federal funds are not eligible for payment into sinking funds created and maintained for the subsequent retirement of bonds.

§ 140.03 Programs.

Programs covering projects to be financed from the proceeds of bonds shall be prepared and submitted to FHWA. Project designations shall be the same as for regular Federal-aid projects except that the prefix letter "B" for bond issue shall be used as the first letter of each project designation, e.g., "BI" for Bond Issue Projects--Interstate.

§ 140.604 Reimbursable schedule.

Projects to be financed from other than Interstate funds shall be subject to a 36-month reimbursable schedule upon conversion to regular Federal-aid financing (See Appendix). FHWA will consider requests for waiver of this provision at the time of conversion action. Waivers are subject to the availability of liquidating cash.

§ 140.605 Approval actions.

(a) Authorization to proceed with preliminary engineering and acquisition of rights-of-way shall be issued in the same manner as for regularly financed Federal-aid projects.

(b) Authorization of physical construction shall be given in the same manner as for regularly financed Federal-aid projects. The total cost and Federal funds required, including interest, shall be indicated in the plans, specifications, and estimates.

(c) Projects subject to the reimbursable schedule shall be identified as an "E" project when the SHA is authorized to proceed with all or any phase of the work.

(d) Concurrence in the award of contracts shall be given.

§ 140.606 Project agreements.

Project Agreements, Form PR–2, shall be prepared and executed. Agreement provision 8 on the reverse side of Form PR–2 [1] shall apply for bond issue projects.

§ 140.607 Construction.

Construction shall be supervised by the SHA in the same manner as for regularly financed Federal-aid projects. The FHWA will make construction inspections and reports.

§ 140.608 Reimbursable bond interest costs of Interstate projects.

(a) Bond interest earned on bonds actually retired may be reimbursed on the Federal pro rata basis applicable to such projects in accordance with § 140.602(b) and (c).

(b) No interest will be reimbursed for bonds issued after November 6, 1978, used to retire or otherwise refinance bonds issued prior to that date.

§ 140.609 Progress and final vouchers.

(a) Progress vouchers may be submitted for the Federal share of bonds retired or about to be retired, including eligible interest on Interstate Bond Issue Projects, the proceeds of which have actually been expended for the construction of the project.

(b) Upon completion of a bond issue project, a final voucher shall be submitted by the SHA. After final review, the SHA will be advised as to the total cost and Federal fund participation for the project.

§ 140.610 Conversion from bond issue to funded project status.

(a) At such time as the SHA elects to apply available apportioned Federal-aid funds to the retirement of bonds, including eligible interest earned and payable on Interstate Bond Projects, subject to available obligational authority, its claim shall be supported by appropriate certifications as follows: "I hereby certify that the following bonds, (list), the proceeds of which have been actually expended in the construction of bond issue projects authorized by United States Code, Title 23, Section 122, (1) have been retired on ———, or (2) mature and are scheduled for retirement on ———, which is —— days in advance of the maturity date of ———." Eligible interest claimed on Interstate Bond Projects shall be shown for each bond and the certification shall include the statement: "I also certify that interest earned and paid or payable for each bond listed has been determined from the date on and after which the respective bond proceeds were actually expended on the project."

(b) The SHA's request for full conversion of a completed projects), or partial conversion of an active or completed project(s), may be made by letter, inclusive of the appropriate certification as described in § 140.610(a) making reference to any progress payments received or the final voucher(s) previously submitted and approved in accordance with § 140.609.

(c) Approval of the conversion action shall be by the Division Administrator.

(d) The SHA's request for partial conversion of an active or completed bond issue project shall provide for: (1) Conversion to funded project status of the portion to be financed out of the balance of currently available apportioned funds, and (2) retention of the unfunded portion of the project in the bond program.

(e) Where the SHA's request involves the partial conversion of a completed bond issue project, payment of the Federal funds made available under the conversion action shall be accomplished through use of Form PR–20, Voucher for Work Performed under Provisions of the Federal-aid and Federal Highway Acts, prepared in the division office and appropriately cross-referenced to the Bond Issue Project final voucher previously submitted and approved. The final voucher will be reduced by the amount of the approved reimbursement.

§ 140.611 Determination of bond retirement.

Division Administrators shall be responsible for the prompt review of the SHA's records to determine that bonds issued to finance the projects and for which reimbursement has been made, including eligible bond interest expense, have been retired pursuant to the State's certification required by § 140.610(a), and that such action is documented in the project file.

§ 140.612 Cash management.

By July 1 of each year the SHA will provide FHWA with a schedule, including the anticipated claims for reimbursement, of bond projects to be converted during the next two fiscal years. The data will be used by FHWA in determining liquidating cash required to finance such conversions.

Appendix—Reimbursable Schedule for Converted "E"

Time in months following conversion from "E" (bond issue) project to regular project	Cumulative amount reimbursable (percent of Federal funds obligated)
1	1
2	2
3	5
4	9
5	13
6	18
7	23
8	29
9	34
10	39
11	44
12	49
13	54
14	58
15	61
16	64
17	67
18	70
19	73
20	75
21	77
22	79
23	81
24	83
25	85
26	87
27	89
28	91
29	93
30	94
31	95
32	96
34	97
35	99
36	100

[FR Doc. 83–32636 Filed 12–7–83; 8:45 am]
BILLING CODE 4910–22–M

[1] The text of FHWA Form PR–2 is found in 23 CFR 630, Subpart C, Appendix A.

23 CFR Part 630

[FHWA Docket No. 83–21]

Advance Construction of Federal-Aid Projects; Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document revises existing FHWA regulations that prescribe policies and procedures for the construction of projects by State highway agencies (SHAs) in advance of

apportionment of Federal-aid funds, or in lieu of apportioned funds for the Interstate system only, and for the subsequent reimbursement to the SHAs of the Federal share of the cost of the project, including the payment of interest on bonds of eligible Interstate projects. The major purpose of this action is to incorporate statutory changes resulting from the passage of the Surface Transportation Assistance Act (STAA) of 1978 (Pub. L. 95–599, 92 Stat. 2698) which made interest on bonds eligible for reimbursement as amended by the STAA of 1982 (Pub. L. 97–424, 96 Stat. 2097).

DATES: This final rule is effective December 8, 1983. Comments must be received by February 6, 1984.

ADDRESS: Anyone wishing to submit written comments may do so. Comments should be sent to FHWA Docket No. 83–21, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey C. Wood, Office of Fiscal Services (202) 426–0562, or Mr. S. James Wiese, Office of the Chief Counsel (202) 426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This revision is necessary to incorporate the provisions of the STAA of 1978 (Pub. L. 95–599), as amended by section 4 of the STAA of 1978, Amendment (Pub. L. 96–106, 93 Stat. 797), and section 113 of the STAA of 1982 (Pub. L. 97–424). These provisions allow Federal participation of interest costs on bonds issued by a State, the proceeds of which have been expended on the advance construction of projects on the Interstate system: (1) Which were under construction on January 1, 1983, and converted to a regularly funded project after January 1, 1983, or (2) bonds issued after January 6, 1983, to the extent such bond proceeds were expended in the advance physical construction of Interstate projects after January 6, 1983, the total amount of which is limited to the excess of the estimated cost of the physical construction at the time of conversion to a regularly funded project, over the actual cost of construction (excluding interest). The FHWA will participate in the amount of interest expense that (1) was incurred on bonds the proceeds of which were expended on the project, and (2) applies to the amount of the bond proceeds expended on the project. In addition to the changes allowing reimbursement for eligible bond interest on advance Interstate construction projects, Pub. L. 97–424 extended the advance construction provisions to bridge projects under 23 U.S.C. 144, and to highway substitute projects under 23 U.S.C. 103(e)(4). These new provisions have been included in §§ 630.701 and 630.702 (a) and (b).

The new provisions regarding the reimbursement of bond interest costs as described above are contained in § 630.702 (d) and (e). Paragraph (b) of § 630.702 is added to clarify that advance construction approval is made similar to a regularly funded project. Paragraphs (b), (c), and (d), in § 630.702 of the former regulation are redesignated as (b)(1), (b)(2), and (b)(3), respectively. Former paragraph (e) is redesignated as (c) and language has been added to include references to the appropriate section of title 23, U.S.C., and new paragraph (f) has been added to clarify that Federal funds are not committed until the project is converted to a regular Federal funded project.

Existing § 630.704 in the former regulation relating to conversion to regular funded projects has been redesignated as § 630.708.

Provisions for submitting programs and making project designations for advance construction projects now comprise § 630.703. Section 630.703 in the former regulation relating to approval actions has been redesignated as § 630.705.

New § 630.704 (a) and (b) provides for identification of projects on which bond proceeds will be expended, amounts to be expended, and estimated bond interest payable. A certification by the SHA is required setting forth this information, and the Division Administrator is directed to perform reviews of the SHA's records to provide assurance that bond proceeds have been or will be expended on the projects.

New § 630.706 providing for preparation and submission of project agreements, § 630.707 providing for construction supervision and inspection, and § 630.709 providing for submission of progress or final vouchers are added to the regulatory requirements. These provisions have previously been in effect for administrative purposes although they were not codified. They are now made regulatory. Reimbursements will still be made in accordance with the fiscal requirements of FHWA. In addition § 630.709(c) is added to provide for a certification that bond proceeds were expended on the project in accordance with § 630.704, and to provide a computation of the eligible interest costs in accordance with § 630.702.

Section 630.710 has been added to require a notification on July 1 of each year of anticipated claims for reimbursement of converted projects during the next two fiscal years. This data will be used to assist FHWA in determining liquidating cash requirements.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. The economic impact of this rulemaking action will be minimal inasmuch as it is expected to affect fewer then ten SHAs in any fiscal year. Interest costs have not previously been eligible for participation and are expected to be only a minor amount of reimbursable costs when compared with total available highway funds. Accordingly, a full regulatory evaluation is not required.

The primary objective of this rulemaking action is to incorporate statutory provisions mandated by section 4 of the STAA of 1978 and section 113 of the STAA of 1982 which would allow the States to expedite highway construction. For the foregoing reasons, and since the regulation imposes no additional burdens on the States, the FHWA finds good cause to make this regulation effective without prior notice and opportunity for comment and without a 30-day delay in effective date. Neither a general notice of proposed rulemaking nor a 30-day delay of the effective date is required under the Administrative Procedure Act because the matters relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2). Accordingly, the regulation is effective upon publication. However, the FHWA gives notice that comments on the procedures promulgated to administer the statutory provisions will be accepted and evaluated in determining the need for future revisions.

While the FHWA does now anticipate that there will be any useful public comment on the general issue of the statutory provisions themselves, there may be procedural comments on some provisions of the final rule. For this reason, publication of this final rule without an opportunity for prior comments, but with a request for comments following publication, is

consistent with the Department of Transportation's regulatory policies.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental review of Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 630

Bonds, Finance, Grant programs–transportation, Highways and roads.

Issued on: November 30, 1983.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA revises Part 630, Subpart G of Chapter 1 of Title 23, Code of Federal Regulations, to read as set forth below.

PART 630—PRECONSTRUCTION PROCEDURES

* * * * *

Subpart G—Advance Construction of Federal-Aid Projects

Sec.

Authority: 23 U.S.C. 104, 113, 115, and 315; 49 CFR 1.48(b).

Subpart G—Advance Construction of Federal-Aid Projects

§ 630.701 Purpose.

To prescribe procedures for the construction of projects by a State highway agency (SHA) on any highway substitute, Federal-aid system, or bridge project, in advance of apportionment of Federal-aid funds, or in lieu of apportioned funds for the Interstate System only, and for the subsequent reimbursement to the SHA of the Federal share of the cost of the project, including the payment of interest on bonds of eligible Interstate projects for which proceeds of bonds were expended in the construction of the projects.

§ 630.702 Requirements and conditions.

(a) The SHA must have obligated all funds apportioned or allocated to it under 23 U.S.C. 103(e)(4), 104, or 144, other than Interstate funds, of the particular class of funds for which the project is proposed.

(b) The SHA may proceed to construct without the aid of Federal funds any highway substitute, Federal-aid system, or bridge project in the same manner and to the same extent as a regularly funded federally participating project, subject to the following provisions:

(1) Any such project shall conform to the applicable standards adopted for roads on that system on which the project is located.

(2) The plans and specifications shall be approved prior to construction in the same manner as for other projects on the Federal-aid system involved.

(3) The prevailing wage rate provisions of 23 U.S.C. 113, as amended, shall apply.

(c) Advance construction projects are limited to the SHA's expected apportionments for 23 U.S.C. 103(e)(4), 104, or 144 of Federal-aid funds authorized by the Congress but not yet apportioned to the States.

(d) Any interest earned and payable on bonds issued by a State, county, city, or other political subdivision, the proceeds of which were expended on a project on the Interstate system under physical construction on January 1, 1983, and converted to a regularly funded project after January 1, 1983, is an eligible cost of construction as provided for in 23 U.S.C. 115(b)(2) to the extent that the bond proceeds were actually expended in the construction of an Interstate project. The amount of interest eligible for participation will be based on: (1) The date the proceeds were expended on the project, (2) amount expended, and (3) the date of conversion to a regularly funded project or the date of bond maturity, whichever is earlier.

(e) Interest earned and payable on bonds issued by a State after January 6, 1983, to the extent such bond proceeds were actually expended in the advance physical construction of Interstate projects may be considered an eligible cost of construction in accordance with 23 U.S.C. 115(b)(3). Eligibility for participation will be based on: (1) The date the bond proceeds were expended on the project, (2) amount expended, and (3) the date of bond maturity. The amount of interest allowable as a cost of construction is limited to the excess of the estimated cost of the physical construction of the project as if it were to be constructed at the time of conversion to a regularly funded project over the actual cost of construction of the project (excluding interest). Construction cost indices will be used to determine the cost of construction at the time of conversion to a regularly funded project.

(f) The authorization of an advance construction project does not constitute a commitment of Federal funds until the project is converted to a regular Federal-aid project as provided for in § 630.708.

§ 630.703 Programs.

Programs for advance construction projects shall be prepared and submitted in the manner prescribed for Federal-aid projects. Project designations shall be the same as for regular Federal-aid projects except that until the project is converted to a regular Federal-aid project, the prefix letters "AC" for advance construction shall be used as the first letters of each project designation.

§ 630.704 Bond proceeds expended on projects.

(a) The SHA shall include with its request for conversion action in accordance with § 630.708 a certification which provides a listing of bonds the proceeds of which have been expended on a project on the Interstate system under physical construction on January 1, 1983, and converted to a regularly funded project after January 1, 1983. The certification will show the bond amounts, maturity dates and bond interest payable.

(b) The SHA shall indicate in its request for approval of plans, specifications, and estimates (PS&E) for Interstate projects if bond proceeds will be expended on the project, for bonds issued after January 6, 1983, amount to be expended, and estimated bond interest payable. A certification which provides a listing of the bonds expended or to be expended on the projects showing bond amounts, maturity dates, and bond interest payable shall be furnished either as a part of the PS&E submission or in a separate letter to the Division Administrator.

(c) The Division Administrator shall perform adequate reviews of the SHA's records to provide assurance that bond proceeds have been or will be expended on the projects in accordance with the listing in § 630.704 (a) and (b).

§ 630.705 Approval actions.

(a) Authorizations to proceed with preliminary engineering and acquisition of rights-of-way shall be issued in the same manner as for regularly financed Federal-aid projects.

(b) Authorization of physical construction shall be given in the same manner as for regularly financed Federal-aid projects, subject to the provisions of § 630.704(a).

(c) Concurrence in the award of contracts shall be given.

§ 630.706 Project agreements.

Project agreements, Form PR-2, Federal-aid Project Agreement, shall be prepared and executed. Agreement provision 6 on the reverse side of Form PR-2 [1] shall apply for advance construction projects.

§ 630.707 Construction.

Construction shall be supervised by the SHA in the same manner as for regularly financed Federal-aid projects. The Federal Highway Administration (FHWA) will make construction inspections and reports.

§ 630.708 Conversion from advance construction status to regular Federal-aid funded status.

An advance construction project may be converted to a regularly financed Federal-aid project by approval of a SHA's written request whenever sufficient obligational authority and apportioned Federal-aid funds of the particular class are available to cover the Federal pro rata share of the cost. Approval of the conversion action shall be by the Division Administrator.

§ 630.709 Progress and final vouchers.

(a) Progress or final vouchers may be submitted for the Federal share of construction costs incurred on advance construction projects after conversion action including eligible interest costs on Interstate projects.

(b) Although reimbursement cannot be made until after conversion action is completed, a final voucher shall be submitted by the SHA upon completion of an advance construction project which has not been converted to a regularly funded project. After final review, the SHA will be advised as to the total cost and Federal fund participation in the project when conversion is accomplished. Such final vouchers shall be retained until conversion of the project is accomplished.

(c) The final voucher shall contain a certification that bond proceeds were expended in the construction of the project as described in § 630.704 (a) or (b) and shall include a computation of the eligible interest costs in accordance with § 630.702 (d) or (e).

§ 630.710 Cash management.

By July 1 of each year, the SHA will provide FHWA with a schedule, including the anticipated claims for reimbursement, of advance construction projects to be converted during the next two fiscal years. The data will be used by FHWA in determining liquidating cash required to finance such conversions.

[FR Doc. 83-32835 Filed 12-7-83; 8:45 am]

BILLING CODE 4910-22-M

[1] The text of FHWA Form PR-2 is found in 23 CFR Part 30, Subpart C, Appendix A.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, 75, and 77

Wire Rope Standards

Correction

In FR Doc. 83-31500 beginning on page 53228 in the issue of Friday, November 25, 1983, make the following corrections:

1. On page 53233, first column, thirteenth line from the top, "load and attachment" should have read "load end attachment".

2. On page 53234, third column, second complete paragraph, sixteenth line, "rope requirement" should have read "rope retirement".

3. On page 53236, third column, § 56.19a, Standard 56.19a-21, in the last line on the page, "Minimum Value-Static Lead" should have read "Minimum Value=Static Load".

4. On page 53239, first column, in the table of contents for Subpart O to Part 75, the entry numbered "75.1401—1" should have read "75.1404—1".

5. On page 53240, first column, § 75.1431(a), in the equation, "(7.0=0.001L)" should have read "(7.0−0.001L)".

6. In the same section, paragraph (b), in the equation, "(7.0=0.0005L)" should have read "(7.0−0.0005L)".

7. On page 53241, first column, the table of contents for Subpart O to Part 77, all the entries beginning "17.* * *" should have read "77.* * *", and the entry "77.1401-1" should have read "77.1402-1".

8. Also on page 53241, third column, § 77.1431, paragraph (a), in the equation, fourth and fifth lines, "For rope lengths less than 3,000 feet or greater" should have read "For rope lengths 3,000 feet or greater".

9. On page 53242, first column, § 77.1433(b), third line, "rope that has been" should have read "rope that has not been".

10. Also on page 53242, third column, § 77.1903(a), first line, "Hoists and used" should have read "Hoists used".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 1-83-04]

Drawbridge Operation Regulations; Kennebunk River, Maine

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Maine Dept. of Transportation the Coast Guard is changing the regulations governing the operation of the Dock Square drawspan, across the Kennebunk River, to require advance notice for an opening of the drawspan except from 7 a.m. to 5 p.m. from April 15 through October 15. This action will permit the bridge owner to provide less drawtender service while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on January 9, 1984.

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

SUPPLEMENTARY INFORMATION: On 2 May 1983 the Coast Guard published the proposed rule in the **Federal Register** (48 FR 19741). The First Coast Guard published the proposal in a Public Notice on 21 March 1983 and as an item in the Local Notice to Mariners No. 14 on 29 March 1983. Interested persons were given until 13 June 1983 to submit comments.

Drafting Information

The principal persons involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant Susan M. Krupanski, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Comments

There were no responses to any of the public notifications and this proposal is therefore adopted at this time.

PART 117—[AMENDED]

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.28 to read as follows:

§ 117.28 Kennebunk River, Maine

The draw of the Maine Dock Square Highway Bridge between Kennebunk and Kennebunkport shall open promptly on signal from 7 a.m. to 5 p.m. (local time) from April 15 through October 15. From 5 p.m. to 7 a.m. from April 15

through October 15 the draw need not open except on advance notice given to the drawtender during hours he is on duty. At all other times, the draw need not open unless at least 24 hour advance notice is given in person, in writing or by telephone to the Maine Department of Transportation Division Office, Scarborough, Maine.

(33 U.S.C. 499; 49 U.S.C.1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: November, 14, 1983.

R. A. Bauman,

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

[FR Doc. 83-32701 Filed 12-7-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 08-83-06]

Drawbridge Operation Regulations; Lavaca River, Texas

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Missouri Pacific (MOPAC) Railroad and the Texas Department of Highways and Public Transportation (TDHPT), the Coast Guard is changing the regulations governing the swing span railroad bridge and the removable span bridge on FM 616 highway, both across the Lavaca River, mile 11.2, near Vanderbilt, Texas. The bridges presently are required to open on signal if at least 48 hours advance notice is given.

The change will require that at least ten days notice be given for opening the bridges.

This action is being taken because of the absence of requests to open the bridges in recent years. This action is designed to relieve the bridge owners of the burden of maintaining the capability of opening the bridges on 48 hours notice, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130; (504) 589-2965.

SUPPLEMENTARY INFORMATION: On 25 August 1983, the Coast Guard published a proposed rule (48 FR 38655) concerning this amendment. The Eighth Coast Guard District also published this proposal as a Public Notice dated 25 August 1983. Interested persons were given until 10 October 1983 to submit comments.

The advance notice for opening the draw would be given by placing a collect call, as follows:

MOPAC bridge—Spring, Texas (713) 350-7581

TDHPT bridge—Yoakum, Texas (512) 293-3535

Drafting Information

The principal persons involved in drafting this rule are: Perry Haynes, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of Comments

The only responses to the Public Notice were letters of no objection from the National Marine Fisheries Service and the U.S. Fish and Wildlife Service.

Economic Assessment and Certification

This final regulation has been reviewed under provisions of Executive Order 12291 and has been determined not to be a major rule. It is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedure for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 1980). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above. In accordance with § 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, § 117.245(j)(38), Part 117, Title 33 Code of Federal Regulations, is revised to read as follows:

§ 117.245 [Amended]

* * * * *

(j) * * *

(38) Lavaca River, TX: The draws of the Missouri Pacific Railroad bridge and the Texas FM 616 highway bridge, both at mile 11.2, at Vanderbilt, shall open on signal if at least 10 days notice is given.

(33 U.S.C. 449, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: November 21, 1983.

W. H. Stewart,

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

[FR Doc. 83-32702 Filed 12-7-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD13 83-05]

Drawbridge Operation Regulations; North Fork Willapa River, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Washington State Department of Transportation, the Coast Guard is changing the regulations governing the highway drawbridge across the North Fork Willapa River, at Raymond, Washington, to provide that the draw need not open. This change is being made because no requests have been made to open the draw since December 1980. This action will relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442-5864).

SUPPLEMENTARY INFORMATION: On March 24, 1983 the Coast Guard published a proposed rule (48 FR 12399) concerning this change. The Commander, Thirteenth Coast Guard District, also published this proposal as a Public Notice dated March 21, 1983. In each notice interested persons were given until May 9, 1983 to submit comments.

Drafting Information

The drafters of this notice are John E. Mikesell, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Comments

Three responses were received to the **Federal Register** and Coast Guard Public Notice. The responses offered either no objection or no comment to the proposal.

Other than the Washington State Department of Transportation and the City of Raymond, there are no known businesses, including small entities, that would be affected by this change. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The Washington State Department of Transportation, would benefit because it would be relieved of the burden of providing a salaried operator and

maintaining machinery for a bridge for which no openings are required.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by removing and reserving § 117.770(b)(1)(i) and revising § 117.770(b)(2) and adding a new § 117.770(b)(3) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.770 Willapa Harbor and navigable tributaries, Wash.; bridges.

* * * * *

(b) * * *

(1) * * *

(i) [Reserved]

* * * * *

(2) Vessels requiring openings of the Washington State highway bridge across the Naselle River about 6 miles downstream from Naselle shall give at least 2 hours advance notice for openings between 8 a.m. and 5 p.m. on all days except Saturdays, Sundays, and federal holidays, and at least 8 hours advance notice for openings at any other time. Vessels requiring openings of the Burlington Northern railroad bridge across the South Fork Willapa River at Raymond shall give at least 24 hours advance notice. The owners of these bridges shall keep conspicuously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, summaries of the regulations of this section, together with notices stating exactly how the bridge operators may be reached to obtain openings of the bridges, including names, addresses, and telephone numbers.

(3) The draw of the Washington State highway bridge across the North Fork Willapa River at Raymond need not open. However, the draw shall be returned to an operable condition within six months after notification by the Commandant, U.S. Coast Guard, to take such action.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 17, 1983.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 83-32703 Filed 12-7-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 151 and 155

[CGD 75-124a]

Pollution Prevention; Implementation of Outstanding MARPOL 73/78 Provisions

Correction

In FR Doc. 83–27243 beginning on page 45704 in the issue of Thursday, October 6, 1983, make the following corrections:

§ 151.05 [Corrected]

1. On page 54710, column two, § 151.05(h), second line from the bottom, "Eastto" should read "East to".

§ 151.07 [Corrected]

2. On page 45711, column one, § 151.07(a)(4), line two, "withness" should read "witness".

§ 151.13 [Corrected]

3. On page 45712, column one, § 151.13(d), line one, "(d)(1)" should read "(b)(1)".

4. On the same page, column two, § 151.13(f), line two, delete "compliance".

5. On the same page, column two, § 151.13(g), in line three "are" should read "area", at the end of the line "a" should be deleted, and in line four "arew" should read "area".

§ 151.25 [Corrected]

6. On page 45714, column one, § 151.25(d)(2), line two, "tank" should read "tanks".

§ 155.390 [Corrected]

7. On page 45716, column three, § 155.390, in the heading, "Ocean going" should read "Oceangoing".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 2, 3, 4, 5, 6, 7, 9, 12, and 13

General and Special Regulations for Areas Administered by the National Park Service

AGENCY: National Park Service, Interior.

ACTION: Final rule; delay in effective date.

SUMMARY: On June 30, 1983, the National Park Service published final rules containing regulations for areas administered as part of the National Park System. These rules provide guidance and controls for public use and recreation activities such as camping, fishing, boating, hunting and winter sports. On September 22, 1983, the National Park Service delayed the effective date of these final regulations from October 3 to December 19, 1983, to allow for the promulgation of additional special regulations to implement certain sections of the final regulations. This notice further delays implementing these final regulations from December 19 to March 2, 1984. This additional delay is necessary to allow public comment following deliberations by the National Park Service and the Department regarding scope and effect and to correct certain errors in the final regulations.

EFFECTIVE DATE: The effective date of the regulations is changed from December 19, 1983 to March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Weston P. Kreis, Acting Chief, Branch of Ranger Activities, National Park Service, Washington, D.C. 20240 Telephone (202) 343–5607.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1983, the National Park Service published final regulations for areas administered as part of the National Park System (48 FR 30252). These rules provide guidance and controls for public use and recreation activities. Certain provisions of these rules required the promulgation of special rules before the final rules could be implemented. On September 22, 1983, the National Park Service published a notice in the **Federal Register** (48 FR 43174) delaying the effective date of the final rules until December 19, 1983. It is now necessary to again delay the effective date since the special rules were not ready for publication in October as announced on September 22.

The special rules are now ready for publishing in the **Federal Register** as proposed rulemaking. It is necessary to delay the effective date of the final rules in order for the special rules to take effect simultaneously with the final general regulations. The special rules are expected to be published within the next several weeks.

Dated: December 2, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-32857 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[A-7-FRL 2483-5]

Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); Delegation of Authority to the State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: This notice announces an extension of a delegation of authority that was initially issued to the State of Missouri by the Environmental Protection Agency on December 16, 1980, regarding the requirements of the Federal Standards of Performance for New Stationary Sources (NSPS), 40 CFR Part 60, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS), 40 CFR Part 61. The extension was requested by the State of Missouri. The extension action added two (2) NSPS source categories to the delegation. The delegation of authority now includes all delegable requirements of the federal NSPS and NESHAPS regulations as promulgated by the agency through July 1, 1982.

EFFECTIVE DATE: December 8, 1983.

ADDRESSES: All requests, reports, applications, submittals and such other communications that are required to be submitted under 40 CFR Part 60 or 40 CFR Part 61 (including the notifications required under Subpart A of the regulations) for facilities in Missouri affected by the revised delegation should be sent to the Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102. A copy of all Subpart A related notifications must also be sent to the attention of the Director, Air and Waste Management Division, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles W. Whitmore, Chief, Technical Analysis Section, Air Branch, U.S. EPA, Region VII, at the above address (816-374-6525 or FTS-758-6525).

SUPPLEMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act, respectively, allow the Administrator of the Environmental Protection Agency (i.e., EPA or the agency) to delegate to any state government the authority to implement and enforce the requirements of the federal NSPS and NESHAPS regulations. When a delegation is issued, the agency retains concurrent authority to implement and enforce the requirements of said regulations. The effect of a delegation is to shift the primary responsibility for implementing and enforcing the standards for the affected categories (and the affected activities) from the agency to the state government.

On December 16, 1980, the agency delegated to the State of Missouri the authority to implement and enforce the standards as promulgated by the agency through December 1, 1979 (see 46 FR 27392, May 19, 1981). On November 6, 1981, and June 17, 1982, the agency extended the initial delegation to include all requirements of said regulations as amended by the agency through July 1, 1980, and July 1, 1981, respectively (see 47 FR 36422, August 20, 1982).

On September 20, 1983, the State of Missouri requested an extension of the delegation to reflect an updating of its NSPS and NESHAPS rules. The State of Missouri has revised 10 CSR 10-6.070 (NSPS-related) and 10 CSR 10-6.080 (NESHAPS-related) to incorporate by reference the standards of 40 CFR Parts 60 and 61 as amended by the agency through July 1, 1982.

In consideration of the information contained in the above-mentioned letter, the agency granted the extension request on October 7, 1983.

The latest action by the agency extended the delegation to include the following additional provisions:

NSPS

Subpart KK—Lead Acid Battery Manufacturing Plants;

Subpart NN—Phosphate Rock Plants;

Reference Method 12—Determination of Inorganic Lead Emissions from Stationary Sources; and,

Revisions made to Subpart GG (Stationary Gas Turbines).

NESHAPS

Reference Method 101A—Determination of Particulate and Gaseous Mercury Emissions from Sewage Sludge Incinerators; and,

Revisions made to Subpart A (General Provisions), Subpart E (National Emission Standard for Mercury), and Reference Methods 101 and 102 of Appendix B.

Effective immediately, all reports, correspondence, and such other submittals required under the NSPS or NESHAPS regulations for sources affected by the revised delegation should be sent to the Missouri Department of Natural Resources at the above address rather than the EPA Region VII office, except as noted below.

A copy of each notification required under 40 CFR Part 60, Subpart A, or under 40 CFR Part 61, Subpart A, must *also* be sent to the attention of the Director, Air and Waste Management Division, EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

Each document and letter mentioned in this notice is available for public inspection at the EPA regional office.

This notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: November 8, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83-32572 Filed 12-7-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6456

[AA-50218]

Alaska; Modification of Public Land Order No. 6329

Correction

In FR Doc. 83-23577 appearing on page 39066 of the issue of Monday, August 29, 1983, make the following correction. In the second column, the thirteenth line, "2,696,659", should read "2,969,659".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Field Installations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Order FCC 83-239, adopted May 13, 1983, Released August 10, 1983, removed § 0.121 from the Rules. This section listed all Field Operations Bureau field installations and their administrative areas in addition to the geographical coordinates of the Commission's monitoring stations.

Protection of the Commission's monitoring stations from harmful interference produced by transmitting facilities located nearby is provided in several of the Commission's Rules which reference § 0.121(c) for the geographical coordinates of the monitoring stations. These rules provide a non-mandatory procedure for coordination prior to filing a license application.

Geographical coordinates of the monitoring stations are not commonly available from any other source.

This action is intended to reinstate Rules § 0.121(c) to provide applications for transmitting facilities the geographical coordiantes of the monitoring stations so they may property coordinate the transmitter's location with the Commission.

DATES: Effective November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jeff Anderson, Field Operations Bureau, (202) 632-7593.

List of Subjects in 47 CFR Part 0

Organization and functions (Gov't. agencies).

Order

In the matter of editorial amendment of Part 0 of the Commission's rules.

Adopted: November 4, 1983.
Released: November 21, 1983.

1. We are amending Part 0 of the Commission's Rules to reinstate Rule § 0.121(c). ORDER FCC 83-239, adopted May 13, 1983, Released August 10, 1983, (48 FR 37413, Aug. 18, 1983) removed § 0.121 from the Rules. Applicants for transmitting facilities located near our monitoring stations require the geographical coordinates of our stations so they may take advantage of rules which provide for a non-mandatory procedure for coordinating with the Field Operations Bureau prior to filing a license application for the purpose of protecting our monitoring stations from strong signals. Accordingly, we are reinstating Rule § 0.121(c) listing our monitoring stations and their geographical coordinates. One location is added, Canandaigua, New York, to include the planned reopening as a radio direction-finding site. The geographical coordiantes of Douglas, Arizona and Grand Island, Nebraska are slightly altered to precisely state their current locations.

2. Authority for this action is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's Rules. Since the amendments are editorial in nature the public notice, procedure and effective date provisions of 5 U.S.C. 533 do not apply.

3. In view of the above, It is ordered, That § 0.121 of the rules IS ADDED in accordance with the attached appendix, effective November 21, 1983.

4. Regarding questions on matters covered in this document contact Jeff Anderson (202) 632-7593.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Part 0 of Chaper I of Title 47 of the Code of Federal Regulations is amended by adding § 0.121 to read as follows:

§ 0.121 Location of Field Installations.

(a)—(b) [Reserved]

(c) Monitoring stations are located at the following geographical coordinates:

Allegan, Michigan
42°36'20" N. Latitude
85°57'20" W. Longitude
Anchorage, Alaska
61°09'43" N. Latitude
149°59'55" W. Longitude
Belfast, Maine
44°26'42" N. Latitude
69°04'58" W. Longitude
Canandaigua, New York
42°54'48" N. Latitude
77°15'59" W. Longitude
Douglas, Arizona
31°30'02" N. Latitude
109°39'12" W. Longitude
Ferndale, Washington
48°57'21" N. Latitude
122°33'13" W. Longitude
Fort Lauderdale, Florida
26°06'08" N. Latitude
80°16'42" W. Longitude
Grand Island, Nebraska
40°55'21" N. Latitude
98°25'42" W. Longitude
Kingsville, Texas
27°26'29" N. Latitude
97°53'00" W. Longitude
Laurel, Maryland
39°09'54" N. Latitude
76°49'17" W. Longitude
Livermore, California
37°43'30" N. Latitude
121°45'12" W. Longitude
Powder Springs, Georgia
33°51'44" N. Latitude
84°43'26" W. Longitude
Sabana Seca, Puerto Rico
18°27'23" N. Latitude
66°13'37" W. Longitude
Waipahu, Hawaii
21°22'45" N. Latitude
157°59'54" W. Longitude

[FR Doc. 83-32376 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 69

[CC Docket No. 78-72; Phase I]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Waiver of Commission rules.

SUMMARY: The Chief of the Common Carrier Bureau, acting under delegated authority, grants in part the petition filed by the American Telephone and Telegraph Company (AT&T) seeking a waiver of the Commission's rule limiting to twenty-five pages the length of oppositions to petitions for reconsideration of Commission decisions. AT&T requested the waiver to permit parties to file oppositions to petitions for reconsideration of the Commission's amended rules for computing access charges that were up to fifty pages in length. The amended rules were published on September 21, 1983 at 48 FR 42987. The waiver granted will permit parties to file oppositions not exceeding thirty-five pages in length. The Chief of the Common Carrier Bureau concluded that this action was necessary because of the length of the petitions and their differing approaches to addressing the issues they raised.

EFFECTIVE DATE: Waiver is effective November 16, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kathleen B. Levitz, Common Carrier Bureau, (202) 632-9342.

Order

In the matter of MTS and WATS Market Structure; CC Docket No. 78-72, Phase I.

Adopted: November 15, 1983.
Released: November 16, 1983.
By the Chief, Common Carrier Bureau.

1. The Commission has received thirty-five petitions filed on or before October 24, 1983, requesting that it reconsider decisions reached in the *Memorandum Opinion and Order* in this

docket released on August 22, 1983 (*Reconsideration Order*).[1] Under the Commission's rules, oppositions to these petitions, not to exceed twenty-five pages in length, must be filed on or before November 25, 1983. *See* 47 CFR 1.4(b)(1), 1.4(i) and 1.429(f). The American Telephone and Telegraph Company (AT&T) has filed a motion requesting permission to file an opposition to the petitions for reconsideration in excess of twenty-five pages, but not in excess of fifty pages.

2. In support of its motion, AT&T states that its opposition filing will be its only opportunity to respond to the differing arguments presented in several of the petitions. It notes that because we had granted an earlier waiver request,[2] many of these petitions were themselves more lengthy than the twenty-five pages prescribed by the Commission's rules. *See* 47 CFR 1.429(d).

3. As we had expected, the issues raised in the petitions for further reconsideration were substantially fewer in number than those addressed in the *Reconsideration Order*. The length of the petitions and their differing approaches to addressing these issues, however, do appear to warrant a limited relaxation of the rule limiting the length of oppositions. For this reason, we shall permit interested persons to file oppositions that do not exceed thirty-five pages in length.

4. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's rules, 47 CFR 0.291, that the motion of the American Telephone and Telegraph Company is granted in part and that parties may file oppositions to petitions for further reconsideration of the *Memorandum Opinion and Order* in CC Docket No. 78-72, Phase I, released August 22, 1983, that do not exceed thirty-five pages.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 83-32654 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MMDocket No. 83-839; RM-4464]

FM Broadcast Stations in Wurtsboro, and Woodstock, New York; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 261A to Wurtsboro, New York, as its first FM assignment in response to a petition filed by Jerome Gillman, Inc. This action also assigns Channel 272A to Woodstock, New York, in lieu of Channel 261A, and modifies the license for Station WDST-FM to specify the new channel.

DATE: Effective: February 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Wurtsboro and Woodstock, New York); MM Docket No. 83-839, RM-4464.

Adopted: November 14, 1983.
Released: November 30, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making and Order to Show Cause* (48 FR 37486, published August 18, 1983) issued in response to a petition for rule making filed by Jerome Gillman, Inc. ("petitioner") proposing to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, by assigning Channel 261A to Wurtsboro, New York, by deleting that channel from Woodstock, New York, and by assigning Channel 272A to Woodstock. The *Notice* also ordered that the license of Woodstock Communications, Inc. ("WCI") for Station WDST-FM, Woodstock, be modified to specify operation on Channel 272A in lieu of Channel 261A. Petitioner and WCI filed comments supporting the proposal.

2. As set forth in the *Notice*, petitioner and WCI have agreed that WCI will change its frequency and relocate its transmitter. The transmitter relocation is necessary in order to substitute Channel 272A at Woodstock. WCI restates its willingness to change its frequency and transmitter site under the terms of its agreement with petitioner or under the terms of a similar agreement with another applicant for Channel 261A at Wurtsboro.

3. The assignment of Channel 261A to Wurtsboro would provide that community with its first local FM service. Thus, we find that assignment to be warranted. The assignment requires a site restriction of 6 miles west in order to avoid short-spacing to Station WHUD(FM), Peekskill, New York, and to the new location for Station WVNJ-FM, Newark, New Jersey.

4. Established Commission policy provides for reimbursement for reasonable costs of a channel change in a station's frequency from the party benefitting from a new channel assignment. However, as noted, petitioner and WCI have already agreed between themselves that WCI will relocate its transmitter and change its frequency of operation and that petitioner will provide WCI with specified reimbursement for the relocation and change. Should another party other than petitioner receive the authorization to operate on Channel 261A, that party is required to pay for reasonable expenses incurred by WCI in relocating its transmitter and in changing its frequency.

5. Accordingly, pursuant to authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective February 6, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Woodstock, N.Y.	272A
Wurtsboro, N.Y.	261A

6. It is further ordered, pursuant to the authority contained in section 316(a) of the Communications Act of 1934, as amended, that the outstanding license for Station WDST-FM, held by Woodstock Communications, Inc., at Woodstock, New York, is modified effective February 6, 1984, to specify operation on Channel 272A in lieu of Channel 261A with the condition that it will be reimbursed for the reasonable costs incurred in switching frequencies and in relocating its transmitter from the ultimate permittee of Channel 261A, Wurtsboro. Woodstock Communications, Inc. shall inform the Commission in writing by no later than February 6, 1984, of its consent to this modification. Station WDST-FM may continue to operate on Channel 261A until a permit is issued for Channel 261A at Wurtsboro or for one year from the effective date herein, whichever is first. Additionally, the modification of license for Station WDST-FM is subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

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[1] FCC 83-356, 48 FR 42987 (Sept. 21, 1983).

[2] See Order in CC Docket No. 78-72, Phase I, CC Mimeo 151, released October 12, 1983.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

7. It is further ordered That the Secretary shall send a copy of this *Report and Order* by certified mail, Return Receipt Requested, to Woodstock Communications, Inc., Station WDST-FM, 118 Tinker Street, Woodstock, New York 12498.

8. It is further ordered, that this proceeding is terminated.

9. For futher information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau (202) 634–6530.

Federal Communicationa Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-32852 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 83

[PR Docket No. 83-11]

Compulsory Telegraph Vessels To Be Capable of Generating a Specified Minimum Field Strength at a Distance of One Nautical Mile; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the date by which compulsory fitted radiotelegraph vessels must comply with a specified minimum radiated power on the distress frequency 500 kHz.

FOR FURTHER INFORMATION CONTACT: Charles Fisher, Private Radio Bureau, (202) 632–7175.

In the matter of amendment of Part 83 of the rules to require compulsory telegraph vessels to be capable of generating a specified minimum field strength at a distance of one nautical mile; PR Docket No. 83–11; Erratum.

In the Report and Order in the above-captioned matter, FCC 83–384, released September 7, 1983, published in the **Federal Register** on September 19, 1983, 48 FR 41771, the effective date of compliance with the field strength requirement was misstated as being October 1, 1986. Accordingly, §§ 83.444(a) and 83.446(a)(2) are corrected by changing the date of compliance to September 7, 1983.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-32847 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 82-326; RM-3909; FCC 83-545]

Allocation and Assignment of Radio Frequency Channels for a Self-Powered Vehicle Detector

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended its rules to allow the use of self-powered vehicle detectors (SPVD's) on twenty Highway Maintenance Radio Service frequencies on a secondary, non-interference basis. This action is necessary to enable licensees to utilize SPVD's to assist in monitoring and controlling the flow of traffic.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau (202) 634–2443.

List of Subjects in 47 CFR Part 90

Radio.

Report and Order

In the matter of amendment of Part 90 of the Commission's Rules regarding the allocation and assignment of radio frequency channels for a self-powered vehicle detector; PR Docket No. 82–326, RM–3909.

Adopted: November 23, 1983.

Released: December 5, 1983.

By the Commission.

1. On April 7, 1983, the Commission adopted a Notice of Proposed Rule Making proposing to allow the use of self-powered vehicle detectors ("SPVD's") on twenty Highway Maintenance Radio Service frequencies in the 47.02–47.40 MHz band. The proposed use was on a secondary, non-interference basis to land mobile operations on these frequencies.[1] [2]

2. SPVD's are used to monitor the flow of traffic. Typically an SPVD is placed in a hole drilled in the road surface of the traffic lane to be monitored. Vehicles are detected by a magnetometer which senses the distortion of the earth's magnetic field when a ferromagnetic object passes overhead. Two 30 millisecond pulses are transmitted. The signal are received by a nearby receiver and then routed to a micro-computer which monitors the traffic flow. The micro-computer can then adjust the traffic signal cycle in accordance with the traffic flow.

3. Comments were filed by the American Association of State Highway and Transportation Officials, Inc., (AASHTO), California Department of Transportation (CDOT), U.S. Department of Transportation (DOT), CBS, Inc., State of Washington Department of Transportation (WDOT), and Montgomery County, Maryland.

4. All of the comments were in favor of allowing the use of self-powered vehicle detectos in the Highway Maintenance Radio Service. They also supported the Commission's proposal not to require separate licensing for SPVD operation if the user already has a base/mobile license under Part 90 of the Commission's Rules. The only area of controversy was with the exact number of frequencies to be set aside for SPVD use. AASHTO, CDOT, and DOT argued that the twenty frequencies proposed were not sufficient and that additonal frequencies in the 45–46 MHz band should be made available.

According to these commenters, the additional frequencies would permit greater flexibility at locations where frequencies in the 47.02–47.40 MHz band were being used for land mobile operations.[3] Finally, in regard to maintaining records of the number of SPVD's in use on each frequency, the commenters argued that it would be unnecessary and burdensome.

5. The commenters have shown that there is a need for SPVD's to assit them in monitoring and controlling the flow of traffic. After reviewing the record in this proceeding, therefore, we are adopting our proposal to allow the use of self-powered vehicle detectors in the 47.02–47.40 MHz band on a secondary, non-interference basis. In order to minimize interference potential, we are adopting the technical standards proposed for such operation. Further, to minimize administrative burdens on users, we are also adopting our proposals that separate licensing and frequency coordination not be required. These rule changes will benefit the public by maximizing user options in securing necessary communications in an economical, effective, and efficient manner, without imposing unnecessary

[1] PR Docket 82–326, *Notice of Proposed Rule Making*, adopted April 7, 1983, FCC 83–136, (released April 14, 1983).

[2] Frequencies are assigned in increments of 20 kHz in this band.

[3] The issue of SPVD operation on frequencies is the 45–46 MHz band was raised in the initial stages of this proceeding. CBS argued that such use posed a threat of objectionable interference to television reception.

administrative burdens on users and without adversely affecting our ability to manage the spectrum.

6. We are not adopting the commenters' suggestions to allow the use of SPVD's on additional frequencies in the 45–46 MHz band. In the NPRM, we specifically noted that we were not proposing to use those frequencies for SPVDs. We took this action in order to obviate any likelihood of interference to television reception. Our concerns over possible television interference problems remain. We will limit SPVD operation to the twenty 47 MHz frequencies specified in the Appendix.

7. Finally, there is the question of whether to require SPVD users to maintain records of the number of units used on each frequency as is now required of police radar users. We currently require police radar users to notify us of the number of radar units in operation and the frequency band they operate in whenever their base/mobile license is renewed. This notification was required so that we could gauge the usage of that portion of the spectrum and regulate it accordingly.[4] Unlike radar operation, however, SPVD operation is only a secondary use of the frequencies in question. These frequencies are primarily used for base/mobile dispatch type operations where separate licensing is required. Thus the Commission is already being supplied with the basic information it needs to monitor the usage of this spectrum. Accordingly, we agree with the commenters and will not require users to maintain records of the number of SPVD units used on each frequency.

8. Accordingly, it is ordered, that pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is AMENDED, effective January 11, 1984, as set forth in the attached Appendix. It is further ordered that this proceeding is TERMINATED.

9. Further information on this matter may be obtained by contacting Herb Zeiler (202) 634–2443, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Title 47 of the Code of Federal Regulations, Part 90, is amended as follows:

1. Section 90.23 is amended by the addition of limitation 17 to certain frequencies in the Highway Maintenance Radio Service Frequency Table and (c)(17) is added as follows:

§ 90.23 Highway maintenance radio service.

* * * * *

(b) *Frequencies Available.*

HIGHWAY MAINTENANCE RADIO SERVICE FREQUENCY TABLE

Frequency or band (Megahertz)	Class of station (s)	Limitations
* *	* * *	
47.02	do	2, 17
47.04	do	2, 17
47.06	do	2, 17
47.08	do	2, 17
47.10	do	2, 17
47.12	do	2, 17
47.14	do	2, 17
47.16	do	2, 17
47.18	do	2, 17
47.20	do	2, 17
47.22	do	2, 17
47.24	do	2, 17
47.26	do	2, 17
47.28	do	2, 17
47.30	do	2, 17
47.32	do	2, 17
47.34	do	2, 17
47.36	do	2, 17
47.38	do	2, 17
47.40	do	2, 17
* *	* * *	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

* * * * *

(17) Notwithstanding the provisions of limitation (2) above, this frequency may be used by licensees in any of the Public Safety Radio Services without a separate license for the purpose of operating self-powered vehicle detectors for traffic control and safety purposes, on a secondary basis, in accordance with § 90.269 of this Chapter.

* * * * *

3. A new § 90.269 is added as follows:

§ 90.269 Use of frequencies for self-powered vehicle detectors.

(a) Frequencies bearing limitation (17) in the frequency table § 90.23(b) may be used for the operation of self-powered vehicle detectors by licensees of base/mobile stations in any of the Public Safety Radio Services in accordance with the following conditions:

(1) All stations are limited to 100 milliwatts carrier power and a 20F9 emission. The frequency deviation shall not exceed 5 kHz. No more than two 30 ms. pulses may be emitted for each vehicle sensed.

(2) The transmitters must be crystal controlled with a frequency tolerance of plus or minus .005% from −20° to plus 50° C. They must be type accepted.

(3) The total length of the transmission line plus antenna may not exceed one-half wavelength and must be integral with the unit.

(4) All operation shall be on a secondary, non-interference basis.

[FR Doc. 83-32648 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

[4] PR Docket 82-183, *Report and Order*, adopted November 4, 1982, FCC 82-488, (released November 19, 1982).

Proposed Rules

Federal Register
Vol. 48, No. 237
Thursday, December 8, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Proposed Suspension of Certain Provisions of the Order

Correction

In FR Doc. 83-32252 beginning on page 54242 in the issue of Thursday, December 1, 1983, make the following correction.

On page 54242, second column, under **SUPPLEMENTARY INFORMATION,** second paragraph, fifth line, insert the following after "the": "following provisions of the order regulating the handling of milk in the".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 77N-0034]

GRAS Status of Licorice (Glycyrrhiza), Ammoniated Glycyrrhizin, and Monoammonium Glycyrrhizinate

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is tentatively affirming that licorice (glycyrrhiza), ammoniated glycyrrhizin, and monoammonium glycyrrhizinate are generally recognized as safe (GRAS), with specific limitations, as flavoring agents, flavor enhancers, and surfactants for use in human food except when used as sugar substitutes. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. FDA is publishing this document as a tentative final rule to permit comments on the revised method of analysis for glycyrrhetic acid; the provision for interchangeable use of licorice, licorice extract, ammoniated glycyrrhizin, and monoammonium glycyrrhizinate; and the revised conditions of use for these ingredients.

DATE: Comments by February 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Vivian Prunier, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 2, 1977 (42 FR 39117), FDA published a proposal to affirm that licorice (glycyrrhiza) and ammoniated glycyrrhizin are GRAS for use as direct human food ingredients, with specific limitations. In the **Federal Register** of May 15, 1979 (44 FR 28334), FDA proposed that ammoniated glycyrrhizin be used only as a licorice flavor in specific foods or as a surfactant in nonalcoholic beverages. The proposals were published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on glycyrrhiza, teratogenicity and mutagenicity tests on ammoniated glycyrrhizin, and the report of the Select Committee on GRAS Substances (the Select Committee) on licorice, glycyrrhiza, and ammoniated glycyrrhizin have been made available to the public at the Dockets Management Branch (address above). Copies of these documents have also been made available for public purchase from the National Technical Information Service, as announced in the August 2, 1977 proposal.

In addition to proposing to affirm the GRAS status of licorice and ammoniated glycyrrhizin, FDA gave public notice in the August 2, 1977 proposal that it was unaware of any prior-sanctioned food ingredient use for these substances, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of licorice and ammoniated glycyrrhizin recognized by issuance of an appropriate final rule under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned uses for licorice or ammoniated glycyrrhizin were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for the use of these ingredients under conditions different from those set forth in this tentative final rule has been waived.

After publication of the proposal, the agency received reports of two mutagenicity studies: A dominant lethal test in rats (Ref. 1) and a test for unscheduled DNA synthesis in mice (Ref. 2). Both tests were negative.

In response to comments, which are discussed in detail below, FDA is proposing to establish specific limitations on glycyrrhizin content rather than to establish such limitations for each form of licorice. Because glycyrrhizin is the substance in the various forms of licorice that may cause transient hypertensive effects when it is consumed in large doses (see the Select Committee report on licorice and glycyrrhizin and paragraphs 7 and 8 below), it is the glycyrrhizin content that appropriately is subject to specific limitation.

Glycyrrhizin gives licorice its characteristic flavor and is present in licorice root, block licorice extract, licorice extract power, and other licorice preparations at varying levels depending upon the moisture content and processing of the ingredient. Data on the glycyrrhizin levels in typical preparations of licorice that are commercially available were submitted as comments on the proposals. Using this information, FDA has calculated the amount of glycyrrhizin that would occur in food when licorice is used at the levels that were set forth in the proposals or were reported as comments

on the proposals. The establishment of specific limitataions on the ghlycyrrhizin content in food will permit licorice root, block licorice extract, licorice extract powder, and ammoniated glycyrrhizin to be used interchangeably or in any combination in food.

FDA received nine comments on the August 2, 1977 proposal and nine comments on the May 15, 1979 amended proposal. A summary of the comments and the agency's conclusions follows:

1. Three comments said that licorice extract powder is prepared by spray-drying licorice extract, not by grinding the concentrated extract solids as stated in proposed § 184.1408a)(1) (21 CFR 184.1408(a)(1)). One comment reported that licorice extract is commercially available as a liquid, in addition to the paste ("block" licorice) and powder described in the proposal.

The agency has revised § 184.1408(a)(1) to reflect this information.

2. Two comments said that proposed § 184.1408(b) (§ 184.1408(a)(2) in this tentative final rule) gives the formula for monoammonium glycyrrhizinate while describing a manufacturing method for ammoniated glycyrrhizin. The comments requested that FDA revise the proposed regulation to make clear that it covers both ammoniated glycyrrhizin and the more highly purified monoammonium glycyrrhizinate. The comments said that the description of the manufacturing process of ammoniated glycyrrhizin should also be changed to reflect actual practices.

Monoammonium glycyrrhizinate is a highly purified form of ammoniated glycyrrhizin. The agency agrees that the proposed regulation should covers this substance and has revised the tentative final rule to include monoammonium glycyrrhizinate. Unless otherwise indicated, throughout this preamble, FDA will use the term "ammoniated glycyrrhizin" to refer to both ammoniated glycyrrhizin and monoammonium glycyrrhizinate. The agency has also revised the description of the manufacturing process of ammoniated glycyrrhizin in accordance with the suggestions made in the comments.

3. Two comments said that the procedure given for the analysis of the glycyrrhizin content of licorice and ammoniated glycyrrhizin is obsolete. One comment suggested that a high-pressure liquid chromatography method be substituted.

The agency agrees that the analytical method for glycyrrhizin should reflect current technology. In the "Official Methods of Analysis," 13th Ed., the Association of Official Analytical Chemists (AOAC) validated a gas chromatographic method for ammonium glycyrrhizinate, which is measured as glycyrrhetic acid, a derivative of glycyrrhizin. This procedure is more sensitive than the one previously proposed. Therefore, the agency has modified the regulation to incorporate this procedure. The high-pressure liquid chromatography method mentioned in the comment has not been published and has not been validated by the AOAC. Thus, it is appropriate to incorporate it into the regulation. When the method has been validated, the agency will consider the need to adopt the new method and will propose to amend the regulation if that action is indicated.

The 1977 proposal required that the glycyrrhizin content of the ingredient be within the range specified by the vendor. FDA finds, however, that the question whether the actual glycyrrhizin content of the ingredient conforms with the stated glycyrrhizin content is an issue of economics and not safety. FDA has therefore concluded that vendor specifications are not relevant for compliance with this tentative final rule. Accordingly, the agency is deleting the requirement of vendor specifications for glycyrrhizin content of the ingredient.

4. One comment requested modification of the specifications for licorice to permit an ash content that does not exceed 9.5 percent on an anhydrous basis. The comment said that the ash content of the finished product varies with the geographic origin of the licorice root and ranges from 6.5 to 9.5 percent. The comment also suggested that the specifications should be modified to permit not more than 2.5 percent ash for ammoniated glycyrrhizin and not more than 0.5 percent for monoammonium glycyrrhizinate on an anhydrous basis.

The agency agrees that the proposed regulation should describe the ingredients that are used in commerce and has revised the specifications for ash contents in accordance with this comment.

5. Three comments on the 1977 proposal asked that the use levels of the various forms of licorice (root, block extract, and powdered extract) be proportional to their glycyrrhizin content. The comments provided data on the glycyrrhizin content of licorice root, block extract, and powdered extract. These data indicated that licorice root (moisture content of 4.5 percent) contains 11.8 percent glycyrrhizin by weight, block licorice extract (moisture contents of 22.4 percent) contains 19.5 percent glycyrrhizin by weight, and licorice extract powder (moisture content of 5.2 percent) contains 23.7 percent glycyrrhizin by weight. Other comments asked that the agency establish a maximum glycyrrhizin level for each food category instead of specifying maximum levels for each form of licorice in each food. Under these suggestions, the various forms of licorice could be used in any combination, provided that the total amount of glycyrrhizin in the food did not exceed the maximum established for that food category.

The agency agrees that this tentative final rule should be modified to establish maximum glycyrrhizin levels in food. This modification will permit the interchangeable use of licorice root, block licorice extract, and licorice extract powder that was requested in these comments and the interchangeable use of the various forms of licorice and ammoniated glycyrrhizin that was requested in the comments discussed in paragraph 14 below. Under this provision, the various forms of licorice or ammoniated glycyrrhizin may be used in any combination, provided that the glycyrrhizin content does not exceed the maximum glycyrrhizin level specified for the food.

The agency finds that there are three reasons for making this change. Glycyrrhizin, which is the characterizing flavoring substance of licorice, has the potential to cause transient hypertensive effects when it is consumed in large doses (see the Select Committee report on licorice and glycyrrhizin and paragraphs 7 and 8 below). Therefore, it is appropriate to limit specifically consumer exposure to glycyrrhizin. Secondly, it is not possible to distinguish glycyrrhizin derived from licorice root or licorice extract from glycyrrhizin derived from ammoniated glycyrrhizin. Thirdly, this change will afford food manufacturers maximum flexibility, within the specific limitations established in this tentative final rule, in formulating food that contains licorice or ammoniated glycyrrhizin. Accordingly, the agency is no longer specifying use levels for the individual forms of licorice or for ammoniated glycyrrhizin in each food but is establishing maximum glycyrrhizin levels that can occur in each food category as the result of the GRAS uses of these ingredients.

The data supplied in the comments on the glycyrrhizin contents of the various forms of licorice have allowed the agency to calculate the amount of glycyrrhizin that would occur in food when typical commercial preparations of licorice root, licorice extract, or

ammoniated glycyrrhizin are used at the proposed levels or at levels reported in comments. In calculating these glycyrrhizin levels, the agency considered the practice, reported in comments, of using a combination of two or more forms of licorice in some foods. The agency had interpreted the use information in the 1971 National Academy of Sciences/National Research Council (NAS/NRC) survey of industry on the use of GRAS substances to mean that only one form of licorice was added to a particular food. However, the agency has learned from the comments that the practice was otherwise. Thus, the maximum glycyrrhizin content of foods, which is discussed for specific foods in the paragraphs below, is based upon the calculation of the glycyrrhizin level that would result when the licorice ingredients are used in combination at the maximum reported levels.

6. Two comments on the 1977 proposal requested adjustments in the use levels of licorice root and licorice extract in soft and hard candies. One comment submitted data showing that under current good manufacturing practice (CGMP), soft candy may contain up to 1.0 percent licorice root by weight in the finished food, 5.6 percent licorice block extract, and 8.0 percent licorice extract powder. As interpreted by the comment, the 1977 proposal would have permitted the use of these ingredients in any combination up to the maximum levels for each form of licorice. The use of licorice ingredients in combination at the levels reported in the comment would result in a maximum glycyrrhizin level of 3.1 percent in soft candy (see paragraph 5 above for a discussion of the glycyrrhizin content of licorice ingredients). The other comment stated that the proposed use levels for licorice ingredients in hard candy do not include a particular type of licorice food product, even if all forms of licorice were used in combination at the maximum levels. The comment described the product as being composed almost entirely of licorice and having a serving size of 0.1 ounce. The comment stated that the product has been sold in the United States for at least 30 years. The comment requested that the use levels of licorice extract powder in hard candy be raised to 24 percent. The use of licorice ingredients at the levels requested in this comment would result in a glycyrrhizin content of 16 percent in hard candy.

The agency agrees that the specific use limitations of licorice ingredients in soft and hard candies should reflect CGMP, provided that these levels do not result in a significant increase in the consumption of glycyrrhizin. The agency has evaluated the use levels requested in the comments and has found that the use of licorice ingredients at the reported levels in soft and hard candies would not result in a significant increase in the consumption of glycyrrhizin. Accordingly, the agency has modified the proposed regulation to accommodate the use of licorice in hard and soft candies as reported in the comments. Proposed § 184.1408 would permit the use of licorice root and extracts, singly or in any combination, at levels that result in glycyrrhizin levels that do not exceed 3.1 percent in soft candy and 16 percent in hard candy.

7. One comment reported an instance of acute severe hypertension resulting from the consumption of licorice tea. The comment requested that the agency take action to reduce the potential hazard that licorice presents to the public and included several published reports of licorice toxicity to support the request.

The agency has reviewed the reports submitted in the comment as well as other data that have become available since the publication of the Select Committee report. These data (Refs. 3 through 9) include several reports of human toxicity following chronic consumption of high levels of licorice and one report of licorice-induced pseudoprimary aldosteronism elicited experimentally in normal human subjects. However, FDA was aware, even before it received these reports, that these types of toxicity have been associated with ingestion of licorice. For example, in its report, the Select Committee noted the capacity of high doses of glycyrrhizin from licorice and its derivatives to elicit transient hypertensive effects. Additionally, some of the new data indicate that some individuals may be sensitive even to low levels of glycyrrhizin, and that the hypertensive effects of glycyrrhizin may be of concern to persons with hypertensive or circulatory disease.

FDA finds that the adverse effects of glycyrrhizin are generally associated with the consumption of foods that are characterized by a distinctive licorice flavor, such as licorice-flavored candies, liqueurs, or other beverages. These foods contain higher levels of glycyrrhizin than do foods in which the licorice or ammoniated glycyrrhizin has been added as a flavor enhancer. Persons who are sensitive to glycyrrhizin can avoid experiencing glycyrrhizin-induced symptoms by excluding licorice-flavored foods from their diets. FDA believes that the levels of glycyrrhizin contained in foods do not pose a hazard to the public, provided that foods that contain glycyrrhizin are not consumed in excessive quantities or by individuals who are sensitive to low levels of glycyrrhizin.

The new data underscore the need to limit the consumption of glycyrrhizin but do not indicate a need to change its status as a GRAS ingredient. The agency does not have any specific data that indicate how many people consume large quantities of products that contain high levels of glycyrrhizin and, consequently, might be at risk of developing adverse effects from this chemical. From the consumption data that are available, however, the agency estimates that the number of consumers in this group is likely to be insignificant compared to the total population. Thus, the agency concludes that the available information establishes that specific limitations on the use of licorice and ammoniated glycyrrhizin in food are appropriate, but that no further change in the regulatory status of these ingredients is warranted.

The reported use of licorice in licorice tea raises the issue of the status of this use of the ingredient. The use of licorice to make tea is not authorized by § 182.10 *Spices and other natural seasonings and flavorings* (21 CFR 182.10) and was not proposed for GRAS affirmation in proposed § 184.1408. Because no manufacturer of licorice tea has provided any use information on these products as comments on the proposals, the agency is not able to evaluate the safety of this use. Consequently, the agency is not able to conclude that this use is GRAS.

8. Three comments on the 1979 proposal asserted that the safety data did not indicate the need for the proposed specific limitations included in the regulation. Two of these comments included safety data to support this claim.

The safety data that were submitted included a literature review on the toxicological effects of ammoniated glycyrrhizin; oral LD_{50} studies in the mouse, rat, and guinea pig; an 8-week oral study in the rat; 16-week studies in the rat and mouse; and a series of special studies intended to test corticomimetic activity of ammoniated glycyrrhizin in the rat (Refs. 10 and 11). No adverse effects were noted at doses of up to 700 milligrams per kilogram in the 8-week study or 90 milligrams per kilogram in the 16-week studies.

The agency finds that these reports do not include any long-term studies in either animals or humans. The agency would require data on chronic exposure

to glycyrrhizin before it could conclude that unlimited use of ammoniated glycyrrhizin is safe.

The agency concludes that the available data, including the data submitted as comments, are not sufficient to evaluate the safety of significantly increased consumption of glycyrrhizin that would result from expanded uses of ammoniated glycyrrhizin or of licorice. Therefore, FDA believes that the submitted data do not obviate the need for specific limitations on the use of the ingredients. (See also the agency's response to comment 7.)

9. Several comments on the 1979 proposal argued that the proposed specific limitations are unnecessary because the use of ammoniated glycyrrhizin is self-limiting for various reasons. These comments pointed out that the amount of ammoniated glycyrrhizin that can be used to achieve nonlicorice flavor in food is limited by the licorice flavor of the ingredient, which breaks through at higher levels, marring the intended subtle flavoring effect. Another comment stated that the usefulness of monoammoniated glycyrrhizinate is further limited because it is nearly insoluble in cold water, and because when added to hot water, it forms a gel upon cooling. Other comments said that declining availability of licorice root should obviate any concern about increased consumption of ammoniated glycyrrhizin.

The agency finds that the technological factors described in the comments indicate that the level of ammoniated glycyrrhizin and monoammoniated glycyrrhizinate in food will be self-limiting in many food applications. However, as suggested by U.S. patent 3,851,073 (a copy of which was submitted in a comment), which describes the use of a 5'-nucleotide flavor enhancer to suppress the licorice flavor of ammoniated glycyrrhizin, techniques can be developed to overcome existing technological limitations. The agency believes that new technology might allow new uses of these ingredients and thus result in an increase in consumption. Therefore, although technological limitations reinforce limits set for safety reasons, they do not eliminate the need for establishing those limits.

In regard to the limited availability of licorice root, the data submitted indicate that the tobacco industry uses 90 percent of the U.S. supply of licorice root, and that the food and pharmaceutical industries each use 5 percent of the supply of licorice root. These data also show that the use of ammoniated glycyrrhizin in food currently accounts for 2 percent of the U.S. supply of licorice root. Although FDA agrees that the availability of licorice root is diminishing, it is possible that future economic conditions or market forces will divert a greater portion of the supply of licorice root to the production of ammoniated glycyrrhizin for food use. In this event, consumption of ammoniated glycyrrhizin could increase above current levels. Consequently, specific limitations are required.

10. Several comments stated that the 1979 proposal, which stipulated that ammoniated glycyrrhizin is to be used only to produce licorice flavor, is not consistent with the Select Committee's report. Additionally, the comments contended that the 1979 proposal is overly restrictive and would not permit traditional uses of the ingredient. To support these statements the comments argued that the description of the sweetness and flavor-enhancing effects of the ingredient that appeared in the preamble of the 1977 proposal constitute agency recognition of these uses. The comments interpreted a statement in the Select Committee report that ammoniated glycyrrhizin has been important to the food industry because of its sweetness as recognition that extant uses of the ingredient as a sweetening agent were considered by the Select Committee in its review. One comment also pointed out that the 1971 NAS/NRC survey of food manufacturers reported that the ingredient is used to formulate a variety of nonlicorice flavors such as "fermented," "fruit-pulpy," "root," "vanilla," and "cooked, brown and roasted" (e.g., caramel, cocoa, or maple).

Other data submitted in the comments show that ammoniated glycyrrhizin has been used for its sweetness and sweetness-potentiating effects since the 1940's, when the ingredient was added to cough syrup to mask the bitter taste of the medicine. These data also show that in the 1940's, there was a practice of using ammoniated glycyrrhizin in beverages, including root beer. Other pre-1958 uses of the ingredient, according to these data, included its use in chocolate, in chewing gum, and in many nonlicorice flavorings that were added to a variety of foods. Thus, the submitted data demonstrate that ammoniated glycyrrhizin was used in the United States to enhance nonlicorice flavors before 1958.

In the May 15, 1979 proposal, the agency stated that it would consider reinstating the nonlicorice flavoring uses of ammoniated glycyrrhizin originally included in the August 2, 1977 proposal if data were submitted that evidenced a history of prior use. The agency has considered the comments and has reexamined the record used to support this rulemaking. The record does indeed show that ammoniated glycyrrhizin was used before 1958, and that it is currently used as a flavor enhancer and sweetness enhancer. Moreover, the record shows that these uses were considered by the Select Committee in its review. The agency tentatively concludes that these uses are indeed GRAS because there are adequate data to support that these historic and ongoing uses are safe. Accordingly, FDA is no longer specifying that ammoniated glycyrrhizin be used as a licorice flavor only. Proposed § 184.1408 would permit the use of the ingredient as a flavoring agent [21 CFR 170.3(o)(12)] and flavor enhancer [21 CFR 170.3(o)(11)].

FDA has considered the need to establish a listing in the proposed regulation for the sweetness-enhancing function of ammoniated glycyrrhizin and, to reflect this function, has considered including the technical effect of "synergist" [21 CFR 170.3(o)(31)] in the GRAS affirmation regulation. The agency finds, however, that in the GRAS uses reported in the comments discussed above, the ingredient is used not only as a sweetness enhancer but also as a flavor enhancer. FDA concludes that listing the flavoring agent and flavor enhancer uses of the ingredient will provide for the current sweetness-enhancing uses of ammoniated glycyrrhizin, and that it is therefore not necessary to include "synergist" in the list of the functional uses in the regulation.

11. Two comments on the 1977 proposal reported that ammoniated glycyrrhizin could be used as a nonnutritive sweetener in sugar substitute products and inquired whether this use would be covered by the proposal.

After publication of the 1977 proposal, FDA learned that ammoniated glycyrrhizin was actually being used as a nonnutritive sweetener in a saccharin-free sugar substitute. Because none of the comments on the 1977 proposal were from manufacturers of this product, the agency did not have data showing the use level of ammoniated glycyrrhizin in this food. Therefore, the agency was unable to determine the extent to which consumer exposure to glycyrrhizin would be increased as a result of this new use of ammoniated glycyrrhizin. In the absence of consumer exposure information, the agency was not able to evaluate the safety of this use, and, as a result, in 1979, FDA proposed not to

affirm this use as GRAS. No information on this use was supplied in the comments on the 1979 proposal.

On the basis of the Select Committee's opinion and the agency's own evaluation of the toxicity data, FDA has tentatively concluded that new uses of ammoniated glycyrrhizin, such as its use as a sugar substitute, should not be affirmed as GRAS until additional toxicity studies are conducted. Consequently, FDA is excluding the use of ammoniated glycyrrhizin as a sugar substitute as defined in § 170.3(n)(42) (21 CFR 170.3(n)(42)) from this GRAS affirmation regulation.

12. Several comments reported current uses of ammoniated glycyrrhizin that were not included in the 1979 proposal, and uses of this substance in which the levels of ammoniated glycyrrhizin added to food have increased above those reported in the proposal. The comments show that use of ammoniated glycyrrhizin in accordance with CGMP as a flavor in nonalcoholic beverages results in a level of 0.15 percent ammoniated glycyrrhizin in the food rather than 0.01 percent as proposed. The comments also show that the use of the ingredient in accordance with CGMP in both alcoholic and nonalcoholic beverages as a foam stabilizer results in levels of 0.1 percent ammoniated glycyrrhizin in the food rather than 0.002 percent in nonalcoholic beverages as proposed. According to other comments, the CGMP use of the ingredient as a flavoring agent or flavor enhancer results in levels of 0.1 percent in confections and frostings and sweet sauces and 0.15 percent in herbs and seasonings and in reconstituted vegetable proteins.

Other comments reported uses of the ingredient, which began after the 1971 NAS/NRC survey, in foods that contain low-calorie sweeteners. According to these comments, ammoniated glycyrrhizin has been used since 1970, at levels not exceeding 0.1 percent, to mask the bitter aftertaste of saccharin in diet cola. The comments also reported that since 1976 the ingredient has been added to low-calorie ice cream with sorbitol at 0.003 percent as a sweetener enhancer, and that it is also used as a sweetener enhancer in gelatin and pudding at a level of 0.036 percent.

FDA finds that the uses of ammoniated glycyrrhizin reported in these comments, as a foam stabilizer in beverages and as a flavor or as a flavor enhancer in confections and frostings, sweet sauces, herbs and seasonings, and reconstituted vegetable proteins, are consistent with the uses of this ingredient that predate the 1958 amendments and that were evaluated by the Select Committee. The comments provide data to show that the new uses would not result in significant increases in the consumer exposure to ammoniated glycyrrhizin. FDA finds that there is sufficient published safety information to support these uses and that the functional use as a foam stabilizer in both alcoholic and nonalcoholic beverages is covered by the term "surface-active agent" under § 170.3(o)(29). Accordingly, the agency has tentatively concluded that these new uses are GRAS.

FDA also finds that the use of ammoniated glycyrrhizin as a sweetener enhancer in combination with low-calorie sweeteners is analogous to its function as a sweetener enhancer in combination with nutritive sweeteners. Although this use of the ingredient also is new and was not considered by the Select Committee, the comments provide sufficient data to permit an agency determination that this use will not result in a significant increase in consumer exposure to ammoniated glycyrrhizin. Because there is also adequate published information to establish the safety of this use, the agency has tentatively concluded that this use of the ingredient is GRAS.

In accordance with the foregoing, the agency has tentatively decided to affirm as GRAS the use of the ingredient as a flavoring agent, flavor enhancer, and surface-active agent in nonalcoholic beverages at a use level of 0.15 percent and in alcoholic beverages at a use level of 0.1 percent. This tentative final rule also proposes to affirm as GRAS the use of the ingredient as a flavoring agent and flavor enhancer in herbs and seasonings and reconstituted vegetable proteins at use levels of 0.15 percent and in confections and frostings, sweet sauces, gelatins and puddings, and frozen dairy desserts at levels of 0.10 percent. The latter uses are included in the "all other foods" listings.

13. Two comments on the 1979 proposal requested GRAS affirmation of ammoniated glycyrrhizin when used as a flavoring agent in vitamin or mineral dietary supplements, e.g., vitamin tablets, at levels up to 0.5 percent.

Ordinarily, FDA does not affirm as GRAS the use of an ingredient in dietary supplements because the agency lacks consumer exposure data for these products. In this case, however, the Select Committee considered reports describing the use of licorice and ammoniated glycyrrhizin in dietary supplements. The Select Committee used these data in reaching its conclusion on the safety of current uses of these ingredients. Therefore, the agency agrees that the use of these ingredients as flavorings in vitamin or mineral dietary supplements may be affirmed as GRAS with specific limitations up to the level requested. FDA has modified the tentative final rule to reflect this use.

14. Six of the nine comments on the 1979 proposal on ammoniated glycyrrhizin asked that FDA adopt either the entire 1977 proposal or permit ammoniated glycyrrhizin to be used at the 0.17 percent use level in "all other foods," as the agency had proposed to do in the 1977 document. One comment suggested that FDA permit ammoniated glycyrrhizin to be used at a level of 0.1 percent in "all other foods." Two comments asserted that the 1979 proposal would restrict the current practice of substituting ammoniated glycyrrhizin for cruder forms of licorice because it permits ammoniated glycyrrhizin to be added only to specific foods rather than "all other foods." The comment pointed out that, in contrast, the 1977 proposal would have permitted both licorice and ammoniated glycyrrhizin to be used in "all other foods." According to the comments, the use of ammoniated glycyrrhizin instead of licorice results in a lower level of glycyrrhizin in the finished food. To permit this substitution, the comments requested the establishment of a use level for ammoniated glycyrrhizin in "all other foods."

FDA agrees that the regulation should be modified to permit licorice and ammoniated glycyrrhizin to be used interchangeably (as discussed in paragraph 5 above). To provide for this interchangeable use, the agency is proposing to affirm as GRAS the use of glycyrrhizin in "all other foods," regardless of the source of the glycyrrhizin. Because the agency lacks consumption data on the use of ammoniated glycyrrhizin in sugar substitutes (21 CFR 170.3(n)(42)), however, the proposed regulation specifically excepts sugar substitutes from the "all other foods" category (see paragraph 11 above).

FDA finds that the maximum glycyrrhizin level in "all other foods" should be set at a level that is high enough to accommodate interchangeable use of licorice and ammoniate glycyrrhizin, as requested in the comment, but not so high that use of the ingredient in "all other foods" results in a significant increase in the consumption of glycyrrhizin. The 1977 proposal on licorice would have permitted licorice root to be used at a level of 0.07 percent in "all other foods" and licorice extract powder and licorice block extract to be used in "all other

foods" at levels of 0.04 percent and 0.17 percent, respectively. Using the data on the glycyrrhizin content of licorice (see paragraph 5 above) and assuming that the ingredients may be used in combination in a food, FDA has calculated that the use of licorice in accordance with the 1977 proposal would have resulted in a glycyrrhizin content of 0.06 percent in "all other foods."

Comments on the 1979 proposal show that ammoniated glycyrrhizin is used at a level of 0.15 percent or higher in relatively few foods, and that use of this ingredient at a level of 0.1 percent is sufficient to achieve the desired effect in most foods.

The agency finds that the submitted use information does not support the establishment of a maximum glycyrrhizin level in "all other foods" at a level of 0.17 percent as requested by the comments. The agency is concerned that establishment of a maximum glycyrrhizin level of 0.17 percent in "all other foods" would permit new uses of licorice or ammoniated glycyrrhizin that could result in increased consumption of glycyrrhizin. The agency concludes that establishment of a maximum glycyrrhizin level of 0.1 percent in "all other foods" would permit all the uses of ammoniated glycyrrhizin reported in the comments on the 1979 proposal (except its use as a sugar substitute), all uses of licorice proposed in the 1977 proposal, and also the interchangeable use of the various forms of licorice and ammoniated glycyrrhizin. Accordingly, the tentative final rule specifies foods in which the use of licorice or ammoniated glycyrrhizin results in a glycyrrhizin content of 0.15 percent or higher and permits these ingredients to be used in any other food not specifically listed at levels that result in a glycyrrhizin content of 0.1 percent. However, the tentative final rule also establishes a maximum glycyrrhizin content of 0.05 in baked goods. The glycyrrhizin content for baked goods is lower than that for "all other foods" because FDA has no data to show that licorice or ammoniated glycyrrhizin is used at levels which would result in a higher glycyrrhizin content in this food category. These actions are consistent with FDA's intent to limit exposure to glycyrrhizin contained in licorice or ammoniated glycyrrhizin to current levels.

15. Several comments inquired about the status of the uses of ammoniated glycyrrhizin that may be developed after FDA publishes the results of its safety review. In addition, a comment on the 1979 proposal stated that new products had been developed on the basis of the level originally proposed of 0.17 percent in "all other foods."

As discussed in paragraph 14 above, this tentative final rule affirms the use of ammoniated glycyrrhizin in "all other foods" at a level of 0.1 percent rather than 0.17 percent. This provision may not cover the newly developed products alluded to in the comment because FDA does not have information about these new uses. Interested persons may comment on current uses that are excluded by this tentative final rule. The agency will determine whether these uses significantly add to the exposure to glycyrrhizin. Comments on the uses of these ingredients should provide specific information on levels of use, food categories, and technical effects. Alternatively, persons seeking FDA approval of these uses may submit a GRAS affirmation petition or a food additive petition in accordance with §§ 170.35 and 171.1.

16. Two comments said that the promulgation of the amended proposal would cause economic damage because it would eliminate virtually the entire market for ammoniated glycyrrhizin.

As indicated above, FDA has modified this tentative final rule from the 1979 proposal to include additional uses of ammoniated glycyrrhizin that the agency has tentatively determined to be GRAS. FDA believes that the tentative final rule consequently will not adversely affect the market for this ingredient, and that it will not cause the economic damage forecast in the comment.

In summary, this tentative final rule differs from the previous proposals as follows:

1. It incorporates a gas chromatographic assay for glycyrrhizin, measured as glycyrrhetic acid, in place of the previously proposed spectrophotometric method;

2. It includes additional technical effects for the ingredients;

3. It permits interchangeable use of licorice and ammoniated glycyrrhizin.

4. It sets limits on total glycyrrhizin content of food, regardless of source, instead of limiting the use level of each ingredient, as previously proposed.

5. It permits licorice and ammoniated glycyrrhizin to be used in more foods, establishes higher use levels than previously proposed, and restores the provision for the use of ammoniated glycyrrhizin in all other foods. The tentative final rule would establish maximum glycyrrhizin levels in food as a flavoring agent or flavor enhancer as follows: 0.05 percent in baked goods; 1.1 percent in chewing gum; 16 percent in hard candy; 0.15 percent in herbs and seasonings; 0.15 percent in plant protein products; 3.1 percent in soft candy; 0.5 percent in vitamin or mineral dietary supplements; and 0.1 percent in all other foods except sugar substitutes. The tentative final rule also would establish maximum glycyrrhizin levels of 0.1 percent in alcoholic beverages and 0.15 percent in nonalcoholic beverages as a surface-active agent as well as flavoring agent or flavor enhancer.

In order to afford interested persons the opportunity to comment on these changes, FDA is issuing this tentative final rule under § 10.40(f)(6) (21 CFR 10.40(f)(6)). FDA will review any comments relevant to these changes that it receives within the 60-day comment period and will issue in the **Federal Register** either an announcement that this tentative final rule has become final or an announcement of modification to this regulation made on the basis of new comments.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this tentative final rule would have on small entities including small businesses. Because the tentative final rule affirms all known current uses of the ingredients, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

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

References

The following information has been placed on file 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. "Study of the Mutagenic Effects of Ammoniated Glycyrrhizin (71–1) by the Dominant Lethal Test in Rats," Stanford Research Institute, Menlo Park, CA, 1977.

2. "Testing for Potential Mutagens by Use of Unscheduled DNA Synthesis (UDS) in the Germ Cells of Male Mice," Division of

Biology, Oak Ridge National Laboratory, Oak Ridge, TN, 1982.

3. Bannister, B., R. Ginsburg, and J. Shneerson, "Cardiac Arrest due to Licorice-induced Hypokalemia," *British Medical Journal*, September 17, 1977, pp. 738–739.

4. Conn, J. W., D. R. Rovner, and E. L. Cohen, "Licorice-induced Pseudoaldosteronism," *Journal of the American Medical Association*, 205:80–84, 1968.

5. Cumming, A. M. M., J. J. Brown, A. F. Lever, K. Boddy, R. Fraser, P. L. Padfield, and J. I. S. Robertson, "Severe Hypokalemia with Paralysis Induced by Small Doses of Liquorice," *Postgraduate Medical Journal*, 56:526–529, 1980.

6. Epstein, M. D., E. A. Espiner, R. A. Donald, and H. Hughes, "Effect of Eating Licorice on the Renin-Angiotensin Aldosterone Axis in Normal Subjects," *British Medical Journal*, 1:488–490, 1977.

7. Miller, E., T. Michel, G. Ikeda, L. Garthoff, J. Peggins, and M. Khan, "Cardiovascular and Electrolyte Effects of Subchronic Administration of Glycyrrhizin and Salt in Minature Swine (Abstract)," *Federation Proceedings*, 40(3), Part I, 529, 1981.

8. Sundararm, M. B. M. and R. Swaminathan, "Total Body Potassium Depletion and Severe Myopathy due to Chronic Liquorice Ingestion," *Postgraduate Medical Journal*, 57:48–49, 1981.

9. Werner, S., K. Brismar, and S. Olsson, "Hyperprolactinemia and Licorice," *The Lancet*, February 10, 1979, p. 319.

10. Wood, C., "Literature Review of Toxicological Effects from Ammoniated Glycyrrhizin," attachment to comment submitted by Burditt and Calkins, Chicago, IL, dated October 15, 1979.

11. Capra, C., *Fitoterapia*, N. 4, p. 133, 1970. Translation supplied by Inverni Della Beffa as part of a comment dated July 13, 1979.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182:

§ 182.10 [Amended]

a. In § 182.10 *Spices and other natural seasonings and flavorings* by removing the entries for "Glycyrrhiza" and "Licorice."

§ 182.20 [Amended]

b. In § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* by removing the entries for "Glycyrrhiza", "Licorice," and "Glycyrrhiza, ammoniated."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184, by adding new § 184.1408, to read as follows:

§ 184.1408 Licorice and licorice derivatives.

(a)(1) Licorice (glycyrrhiza) root is the dried and ground rhizone and root portions of *Glycyrrhiza glabra* or other species of *Glycyrrhiza*. Licorice extract is that portion of the licorice root that is, after maceration, extracted by boiling water. The extract can be further purified by filtration and by treatment with acids and ethyl alcohol. Licorice extract is sold as a liquid, paste ("block"), or spray-dried powder.

(2) Ammoniated glycyrrhizin is prepared from the water extract of licorice root by acid precipitation followed by neutralization with dilute ammonia. Monoammonium glycyrrhizinate ($C_{42}H_{61}O_{16}NH_4 5H_2O$, CAS Reg,. No. 1407–03–0) is prepared from ammoniated glycyrrhizin by solvent extraction and separation techniques.

(b) The ingredients shall meet the following specifications when analyzed:

(1) *Assay.* The glycyrrhizin content of each flavoring ingredient shall be determined by the method in the Official Methods of Analysis of the Association of Official Analytical Chemists, 13th Ed., sec. 19.136, which is incorporated by reference. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) *Ash.* Not more than 9.5 percent for licorice, 2.5 percent for ammoniated glycyrrhizin, and 0.5 percent for monoammonium glycyrrhizonate on an anhydrous basis as determined by the method in the Food Chemicals Codex, 3d Ed. (1981), p. 466, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(3) *Acid insoluble ash.* Not more than 2.5 percent for licorice on an anhydrous basis as determined by the method in the Food Chemicals Codex, 3d Ed. (1981), p. 466, which is incorporated by reference.

(4) *Heavy metals (as Pb).* Not more than 40 parts per million as determined by method II in the Food Chemicals Codex, 3d Ed. (1981), p. 512, which is incorporated by reference.

(5) *Arsenic (As).* Not more than 3 parts per million as determined by the method in the Food Chemicals Codex, 3d Ed. (1981), p. 464, which is incorporated by reference.

(c) In accordance with § 184.1(b)(2), these ingredients are used in food only within the following specific limitations:

Category of food	Maximum level in food [1]	Functional use
Baked goods, § 170.3(n)(1) of this chapter.	0.05	Flavor enhancer, § 170.3(o)(11) of this chapter; or flavoring agent, § 170.3(o)(12) of this chapter.
Alcoholic beverages, § 170.3(n)(2) of this chapter.	0.1	Flavor enhancer, § 170.3(o)(11) of this chapter; flavoring agent, § 170.3(o)(12) of this chapter; or surface-active agent, § 170.3(o)(29) of this chapter
Nonalcoholic beverages, § 170.3(n)(3) of this chapter.	0.15	Do.
Chewing gum, § 170.3(n)(6) of this chapter.	1.1	Flavor enhancer, § 170.3(o)(11) of this chapter; or flavoring agent, § 170.3(n)(12) of this chapter.
Hard candy, § 170.3(n)(25) of this chapter.	16.0	Do.
Herbs and seasonings, § 170.3(n)(26) of this chapter.	0.15	Do.
Plant protein products, § 170.3(n)(33) of this chapter.	0.15	Do.
Soft candy, § 170.3(n)(38) of this chapter.	3.1	Do.
Vitamin or mineral dietary supplements.	0.5	Do.
All other foods except sugar substitutes, § 170.3(n)(42) of this chapter. The ingredient is not permitted to be used as a non-nutritive sweetener in sugar substitutes.	0.1	Do.

[1] Percent glycyrrhizin content of food, as served.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Interested persons may, on or before February 6, 1984, submit to the Dockets Management Branch (address above), written comments regarding this tentative final rule. 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.

Dated: November 16, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-32646 Filed 12-7-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 184

[Docket No. 82N-0006]

Protein Hydrolysates and Enzymatically Hydrolyzed Animal (Milk Casein) Protein; Proposed GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that certain protein hydrolysates and enzymatically hydrolyzed animal (milk casein) protein are generally recognized as safe (GRAS) for use as direct human food ingredients. The protein hydrolysates are acid and enzymatically hydrolyzed plant (vegetable) protein, acid and enzymatically hydrolyzed yeast protein, and acid hydrolyzed animal (milk casein) protein. Enzymatically hydrolyzed animal (milk casein) protein is being listed separately by FDA because it has significantly different uses than the other protein hydrolysates. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. This proposal does not address the special dietary use of protein hydrolysates in weight reduction diet plans because the agency is considering these diet plans in a separate pending rulemaking.

DATE: Comments by February 6, 1984.

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: Robert L. Martin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (3i FR 20040)) initiating this review, under which the safety of certain protein hydrolysates, including acid hydrolyzed plant (vegetable) protein, acid hydrolyzed yeast protein (autolyzed yeast and yeast with added proteolytic enzymes), acid hydrolyzed animal (milk casein) protein, enzymatically hydrolyzed plant (vegetable) protein, enzymatically hydrolyzed yeast protein, and enzymatically hydrolyzed animal (milk casein) protein has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients. The GRAS status of peptones, which are a form of partially hydrolyzed protein, is the subject of a separate proposal published in the **Federal Register** of December 3, 1982 (47 FR 54456).

Protein hydrolysates represent a group of acid or enzymatically treated protein sources designed to provide a mixture of amino acids or amino acids and small peptides. Enzymatically hydrolyzed plant protein is used almost exclusively to formulate soy sauces. Acid hydrolyzed plant protein and enzymatically and acid hydrolyzed yeast extracts are used mainly as flavoring agents in foods, but a substantial amount of these protein hydrolysates is also used in the formulation of soy sauces. Enzymatically hydrolyzed animal (milk casein) protein is used as a nutrient supplement in foods and infant formula.

In recent years, there has been a large increase in the use of protein hydrolysates in special diets for rapid weight reduction. Because or reports of deaths associated with such diets, however, the United States Public Health Service (PHS) has organized a Protein Diet Task Force to evaluate the efficacy and safety of these diets, which are the subject of a separate pending rulemaking (45 FR 22904; April 4, 1980, and 47 FR 25379; June 11, 1982).

The GRAS status of soy sauce is not a subject of this proposal. Although the safety of soy sauce was considered by the Select Committee on GRAS Substances (the Select Committee) in its report on protein hydrolysates, current information indicates that soy sauces are formulated mixtures of other food ingredients. Because many of these ingredients (including hydrolyzed protein, salt, corn syrup, and caramel) are the subject of separate GRAS evaluations, the agency believes that it would be redundant to publish a separate evaluation for soy sauces.

Protein hydrolysates of commercial importance are those prepared from edible plant or animal (milk casein) protein sources. Edible plant protein sources include soy beans, wheat, corn, rice, peanuts, and yeasts. Edible animal protein sources include food animal casein from milk. Protein of microbial origin other than yeast has no history of use as a source of protein hydrolysates.

Soybean and peanut meals obtained by solvent extraction from oilseeds; wheat and corn glutens separated by wet milling the grains; casein from milk; and yeast are commonly used as starting materials for acid hydrolyzed proteins. The protein content of these raw materials may range from 40 to 90 percent, with a usual protein content of about 60 percent.

In preparing acid hydrolyzed proteins, the protein source is hydrolyzed with food-grade hydrochloric acid at 100° to 130° C. On completion of hydrolysis, the reaction mixture is neutralized with sodium carbonate, treated with activated carbon, and filtered to remove humin formed in the reaction. The resulting liquid is evaporated to produce three types of commercial products: A liquid containing about 40 percent solids, a paste containing about 85 percent solids, or a dry powder.

In the technical and trade literature, hydrolysates of oilseed and cereal protein sources are referred to as hydrolyzed plant proteins (HPP) and as hydrolyzed vegetable proteins (HVP). The major constituents of the HVP and HPP hydrolysates are protein and inorganic salts (ash), which together comprise 85 percent or more of the product on a dry basis. Organic acids, ammonium chloride, and moisture are the principal remaining constituents and account for up to 11 percent of the dry product. Fat, fiber, and carbohydrates generally comprise 0.5 percent or less of hydrolysates on a dry basis.

Acid hydrolysates are almost completely degraded to amino acids; however, acid hydrolysates of vegetable proteins will contain, in addition to amino acids, substantial amounts of other materials reflective of the vegetable protein source, e.g., lipids, starches, and carbohydrates. During acid hydrolysis, the different constituents of the vegetable protein source are chemically degraded or interreact with themselves and with amino acids to form a variety of compounds, not all of which have been characterized. The acid hydrolysis process includes concentration and salting-out steps and results in a product in which certain essential amino acids are removed, or their concentration is reduced. For example, the concentrations of branched-chain amino acids and tyrosine are reduced by removal of insolubles, while tryptophan is lost during the hydrolysis.

Concentrations of cysteine and methionine also are reduced. The result is a mixture largely of nonessential amino acids in which glutamic acid predominates. The typical ratio of free amino acid nitrogen to total nitrogen for commercial protein hydrolysates prepared by acid hydrolysis ranges from 0.75 to 0.95.

Unlike acid hydrolysates, enzymatic protein hydrolysates are processed under carefully controlled conditions. Consequently, the essential amino acids are not significantly diminished in the final product. Enzymatic hydrolysates reflect directly the composition of the starting protein and consist of a variable mixture of polypeptides, oligopeptides, and amino acids. The enzymatic hydrolysis process includes heating, filtration, decolorization, and concentration. Enzymatic hydrolysates have historically had greater use as foods and nutrient supplements than acid hydrolyzed proteins have had. It is estimated that, in enzymatic hydrolysates, the free amino acid nitrogen to total nitrogen ratio ranges from 0.5 to 1.0.

Enzymatically hydrolysates animal (milk casein) protein is used almost exclusively as a nutritional supplement or as an amino acid source in infant formulas. When used as an amino acid source, the enzymatic casein hydrolysate constitutes about 2.2 percent of the formula. Such formulas are fed to a limited group of infants with special problems such as milk allergy. In special dietary formulations, such as those designated for individuals requiring an easily absorbable elemental formulation, enzymatic casein hydrolysates are added at levels appropriate to the particular patient. Because enzymatically hydrolyzed casein is used for significantly different technical effects than the other protein hydrolysates, FDA is proposing to affirm the GRAS status of this substance in a regulation separate from the regulation for the other protein hydrolysates.

FDA has acknowledged in a number of opinion letters that protein hydrolysates are safe for use in food. The agency has stated in these letters that the use of these ingredients is GRAS.

Under Federal standards of identity, hydrolyzed vegetable protein and autolyzed yeast extract are listed as optional ingredients for use in canned vegetables in Part 155 (21 CFR Part 155). Hydrolyzed protein and hydrolyzed protein and reduced monosodium glutamate are listed under Federal standards of identity as optional ingredients for use in canned tuna (21 CFR 161.190). Hydrolyzed plant protein, autolyzed yeast extract, and milk protein (casein) hydrolysates are listed by the U.S. Department of Agriculture as flavoring agents permitted for use in certain meats and meat products (9 CFR 319). Specific labeling requirements for the use of hydrolyzed vegetable protein in food are listed in § 101.35 (21 CFR 101.35).

Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists protein as a required nutrient in infant formulas, subject to level restrictions and to the requirement that the source of protein be at least nutritionally equivalent to casein. Enzymatically hydrolyzed casein is used as a source of protein in infant formula. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. FDA will propose any necessary modifications in the nutrient levels of protein in infant formula in a separate rulemaking under section 412(a)(2) of the act.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which protein hydrolysates are used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to protein hydrolysates. The 1971 NAS/NRC survey reported that a major use of vegetable protein hydrolysates is as a flavoring agent or flavor enhancing agent. It also reported that even though animal protein hydrolysates are used as flavoring agents, flavor enhancers, and firming agents in food, they are not used extensively. In 1975, the International Hydrolized Protein Council (IHPC) estimated that the annual usage of protein hydrolysates in adult foods was 45 million pounds. The 1977 report of IHPC states that hydrolyzed vegetable protein is not used in commercially processed baby food. No poundage data on the amounts of enzymatically hydrolyzed casein used were available from IHPC.

Protein hydrolysates have been the subject of a search of the scientific literature from 1920 to 1977. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 208 abstracts on protein hydrolysates was reviewed, and 20 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review has been updated to 1980 and summarized in a report to FDA by the Select Committee, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB).

The members of the Select Committee have evaluated all the available safety information on protein hydrolysates.[1] In the Select committee's opinion:

> The average level of consumption of protein hydrolysates for flavoring purposes is less than 3 mg per kg per day. Protein hydrolysates are not used for flavoring purposes in commercially processed baby foods which formerly may have contained about 2 percent by weight. The Select Committee was unable to locate reports of experimentally demonstrable adverse effects of high concentrations of glutamate in dietary mixtures.[2]

In light of the above, and on the assumption that appropriate product specifications would be adopted, the Select Committee concludes that there is no evidence in the available information on acid hydrolyzed proteins, enzymatically hydrolyzed proteins, yeast autolysates, and soy sauces that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when these substances are used as flavoring agents at levels that are now current or that might reasonably be expected in the future.[3]

The Select Committee's report also states:

> The situation is different regarding the use of enzymatic casein hydrolysates as nutrients. These hydrolysates are consumed or administered in much higher doses, frequently as the sole source of dietary protein in products that are used as special dietary foods.
>
> Decades of clinical experience have revealed no reports of untoward effects when

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[1] "Evaluation of the Health Aspects of Protein Hydrolysates as Food Ingredients, Supplemental Review and Evaluation," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1980, pp. 2–7. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[2] *Ibid.*, p. 8.

[3] *Ibid.*, p. 8.

casein hydrolysates are administered orally in combination with other nutrients such as glucose. Adverse effects of the dicarboxylic amino acid components have been reported only in rodents under unusual conditions of administration (e.g., gavage or subcutaneous injection) and are not considered relevant to the use of casein hydrolysates by humans.[4]

The Select Committee concludes that no evidence in the available information on enzymatically hydrolyzed casein demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when this substance is used as a nutrient in special dietary foods at levels that are now current or that might reasonably be expected in the future.[5]

FDA has undertaken its own evaluation of all available information on protein hydrolysates and enzymatically hydrolyzed casein and concurs with the conclusions of the Select Committee that these substances are GRAS. The agency concludes that no change in the current GRAS status of these ingredients is justified. However, the Select Committee did not review the safety of the use of protein hydrolysates in connection with weight reduction diet plans. The agency is considering these diet plans in a separate pending rulemaking. Becuase such uses have not been considered in this review, they are not included in this GRAS affirmation proposal.

In addition, FDA does not consider protein hydrolysates to be GRAS for use as flavoring agents for baby food. In its review of the safety of protein hydrolysates, the Select Committee indicated that protein hydrolysates are not used for flavoring purposes in commercially processed baby foods. Therefore, the Select Committee did not evaluate the safety of this use. Also, industry representatives recently have stated that it is no longer current good manufacturing practice to use protein hydrolysates as flavoring agents in baby foods. The agency has considered the available information, has found inadequate data to establish that the use of protein hydrolysates as flavoring agents in baby foods (including infant formulas) is safe, and thus concludes that this use is not GRAS.

FDA is proposing not to include in the GRAS regulations for protein hydrolysates and enzymatically hydrolyzed casein the food categories and levels of use reported in the 1971 NAS/NRC survey for these ingredients. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of protein hydrolysates and enzymatically hydrolyzed casein will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of protein hydrolysates and enzymatically hydrolyzed casein when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of GRAS status of these ingredients is based on the evaluation of currently known uses, the proposed regulations set forth the technical effects that FDA evaluated.

Because no food-grade specifications exist for protein hydrolysates or enzymatically hydrolyzed casein, the agency will work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop acceptable specifications for these ingredients. If acceptable specifications are developed, the agency will incorporate them into the regulations proposed in this document. Until specifications are developed, FDA has determined that the public health will be adequately protected if commercial protein hydrolysates and enzymatically hydrolyzed casein comply with the description in the proposed regulations and are of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

Copies of the scientific literature review on protein hydrolysates, mutagenic and teratogenic evaluations of hydrolyzed vegetable protein, and the reports of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Glutamates [2] (scientific literature review)	PB-299-856/AS	A25	$28.00
Hydrolyzed vegetable protein (soy) (mutagenic evaluation)	PB-260-733/AS	A04	7.00
Hydrolyzed vegetable protein (teratogenic evaluation)	PB-234-875/AS	A03	6.00
Protein hydrolysates (Select Committee report)	PB-283-440/AS	A04	7.00
Protein hydrolysates (Select Committee report, supplement)	PB-80-176643	A02	5.00

[1] Price subject to change.
[2] Includes protein hydrolysates.

This proposed action does not affect the current use of protein hydrolysates in pet food or animal feed.

The format of the proposed regulations is different from that of previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1247 and 184.1672 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

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

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 184 be amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. By adding new § 184.1247 to read as follows:

§ 184.1247 Casein, enzymatically hydrolyzed.

(a) Enzymatically hydrolyzed casein consists of a mixture of amino acids and

[4] *Ibid.*, p. 8.
[5] *Ibid.*, p. 8.

small peptides obtained by digestion of casein with porcine pancreas under carefully controlled conditions. The crude hydrolysate is purified by heating, filtration, and decolorizing. The amino acid profile of the hydrolysate is similar to that of intact casein.

(b) FDA is developing food-grade specifications for enzymatically hydrolyzed casein in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used as a source of protein in foods at levels not to exceed current good manufacturing practice. The ingredient may also be used in infant formulas in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

2. By adding new § 184.1672 to read as follows:

§ 184.1672 Protein Hydrolysates.

(a) The commercial protein hydrolysates covered by and further identified in this section are mixtures of free amino acids and peptides obtained by controlled hydrolysis of proteins from edible plants, edible yeast, or casein (milk protein). (Enzymatically hydrolyzed casein is not covered by this section and is the subject of § 184.1247.)

(1) Hydrolyzed plant (vegetable) protein is obtained by acid or enzymatic hydrolysis of a protein-enriched fraction from the milling of grains or solvent extraction of edible vegetable oil seeds. In acidic hydrolysis, the crude hydrolysate is neutralized, treated with activated charcoal, filtered, and concentrated. In enzymatic hydrolysis, the hydrolysate is heated, filtered, and concentrated.

(2) Hydrolyzed yeast protein is obtained by one of the following methods:

(i) Autolyzed yeast extract is obtained from edible yeast cells by heat processing under controlled conditions to cause rupture of the cells and subsequent digestion of the proteins by endogenous proteolytic enzymes. Insoluble products of autolyzed yeast extract are removed by centrifugation and the soluble extract is filtered and spray-dried.

(ii) Enzymatically hydrolyzed yeast is obtained from edible yeast by digestion with added proteolytic enzymes that are either GRAS or regulated food additives. Insoluble products of enzymatically hydrolyzed yeast are removed by centrifugation and the soluble extract is filtered and spray-dried.

(iii) Acid-hydrolyzed yeast is obtained from edible yeast by digestion with acid, followed by neutralization of the crude hydrolysate, treatment with activated charcoal, filtration, and concentration.

(3) Acid-hydrolyzed casein (milk protein) is obtained by digestion of casein with acid, followed by neutralization of the crude hydrolysate, treatment with activated charcoal, filtration and concentration.

(b) FDA is developing food-grade specifications for these protein hydrolysates in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredients are used in food with no limitation other than current good manufacturing practice. The affirmation of these ingredients as generally recognized as safe (GRAS) as direct human food ingredients is based upon the following current good manufacturing practice conditions of use:

(1) The ingredients are used as firming agents as defined in § 170.3(o)(10) of this chapter; flavor enhancers are defined in § 170.3(o)(11) of this chapter; and flavoring agents and adjuvants as defined in § 170.3(o)(12) of this chapter.

(2) The ingredients are used in food, except infant formulas and baby foods, at levels not to exceed current good manufacturing practice.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropirate.

Interested persons may, on or before February 6, 1984 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.

Dated: November 15, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-32642 Filed 12-7-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 201

[Docket No. 82N-0395]

Aspartame as an Inactive Ingredient in Human Drug Products; Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to declare aspartame suitable for use as an inactive ingredient in human drug products provided that the label and labeling of the drug products declare the presence and amount of the component phenylalanine that is contained in the drug product per dosage unit. The agency is taking this action in response to inquiries from drug manufacturers. Data show that aspartame can be safely used as a sweetening agent in human drug products provided that persons with phenylketonuria are alerted to the presence and the amount of phenylalanine in the product.

DATE: Comments by February 6, 1984.

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: Ed Farha, National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-6490.

SUPPLEMENTARY INFORMATION: Aspartame [L-aspartyl-L-phenylalanine methyl ester] is a dipeptide composed primarily of two amino acids,

phenylalanine and aspartic acid. These, along with other amino acids, are normal constituents of protein foods consumed as part of any healthful diet. When phenylalanine and aspartic acid are combined to form aspartame, they produce an intensely sweet-tasting substance, approximately 180 times as sweet as sucrose. Accordingly, as a sugar substitute, the amount of aspartame needed to produce the same degree of sweetness is substantially reduced, as are the resulting calories.

In the **Federal Register** of July 26, 1974 (39 FR 27317), FDA approved a food additive petition submitted by G. D. Searle & Co. and issued a regulation authorizing the use of aspartame as a sweetening agent in certain foods, as a sugar substitute for table use, and as a flavor enhancer in chewing gum. That regulation was codified in 21 CFR 172.804.

As permitted by section 409(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(f)(1)), two parties formally objected to the regulation on safety grounds, asserting that aspartame may cause brain damage resulting in mental retardation, endocrine dysfunction, or both. Although these parties originally requested a formal evidentiary hearing (21 CFR Part 12), they subsequently waive their right conditioned upon the establishment of a Public Board of Inquiry consisting of three qualified scientists from outside FDA (21 CFR Part 13).

On October 1, 1980, the Public Board of Inquiry issued its decision on the safety of aspartame. Although the Board concluded that aspartame consumption would not pose an increased risk of brain damage, the Board found that the evidence did suggest the possibility that aspartame might cause brain tumors and recommended further testing of the substance. After interested parties filed exceptions to the Board's decision and replies to the exceptions, the administrative record closed on January 29, 1981.

In the **Federal Register** of July 24, 1981 (46 FR 38285), the Commissioner of Food and Drugs issued his Final Decision concerning the food additive petition for aspartame. The Commissioner concluded that the available data establish that human consumption of aspartame at projected consumption levels of 34 milligrams per kilogram (mg/kg) per day: (1) Will not pose a risk of brain damage resulting in mental retardation, endocrine dysfunctiion, or both; and (2) will not cause brain tumors. Thus, the Commissioner determined that aspartame was safe for its proposed use as a food additive, and, accordingly, approved the petition submitted by G.D. Searle & Co.

Subsequently, in a notice published in the **Federal Register** of October 15, 1982 (47 FR 46140), FDA announced that a petition had been filed by the Searle Research and Development Division of G. D. Searle & Co., proposing that aspartame also be approved for use as a sweetener in carbonated beverages. Based on the data in the petition and other relevant material, the agency approved the use of aspartame in carbonated beverages, in a final rule published in the **Federal Register** of July 8, 1983 (48 FR 31376).

As provided for in section 409(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(f)(1)), three parties formally objected to the regulation authorizing the use of aspartame in carbonated beverages. The objections raise many of the same safety issues considered by FDA when aspartame was orginally approved for use as a table top sweetener on July 24, 1981. One of the objections also contends that aspartame causes behavioral changes. Two of the objecting parties have also requested a stay of the regulation and that a formal evidentiary hearing be held. (These objections and requests for a stay and hearing are on file with FDA's Dockets Management Branch under Docket No. 80N–0120.) The agency is now in the process of reviewing these documents. Because the objections raise safety issues, the agency does not plan to issue a final rule authorizing the use of aspartame in drug products until such review is completed.

The approval of aspartame as a food additive was subject to three conditions regarding final product labeling. These include directions not to use aspartame in cooking or baking because the compound loses its sweetness when exposed to prolonged heat; labeling in compliance with FDA's special dietary foods regulations, when applicable; and a prominently displayed alert to persons with phenylketonuria that the product contains phenylalanine.

Phenylketonuria (PKU) is an inherited disorder of the metabolism of phenylalanine. It is transmitted by an autosomal recessive gene, and its incidence in the United States is about 1 in 15,000. The most common form of the disorder results from the absence of an enzyme (phenylalanine hydoxylase) that converts phenylalanine to tyrosine. As a consequence of the absence of the enzyme, phenylalanine accumulates in body tissues in abnormally high concentrations. If untreated, the clinical consequence is profound mental retardation, often accompanied by epileptic seizures and chronic dermatitis. However, children born with PKU can develop to adults of normal intelligence provided their dietary intake of phenylalanine is carefully restricted.

Since the Commissioner's decision in 1981, the agency has received several inquiries from drug manufacturers concerning the suitability of aspartame's use as a sweetening agent in human drug products. Although FDA does not have any data available showing the amount of aspartame which would be contained in a drug product, based on the agency's experience with the level of sweetener needed for various technical effects in drugs, the level of aspartame that would be used in human drug products would be much less than the estimated 34 mg/kg daily consumption at the 99 percentile level (or 2 grams for an average 60 kg individual) resulting from aspartame's use in foods. Because this additional exposure would be so low and the risk threshold from aspartame's use so much higher than any expected total human consumption, FDA believes tha aspartame when used at a level no higher than reasonably required to perform its intended technical function is also suitable for use as a sweetening agent in human drug products provided certain conditions are met relating to the labeling of the products.

Because phenylalanine intake in drug products must also be restricted by persons with PKU, finished drug products must include and appropriate warning to phenylketonurics that the drug contains phenylalanine. This requirement would be consistent with the labeling requirement for aspartame's safe use in food products. In addition, FDA believes that the label and labeling of drug products should also state the amount of the ingredient which would be ingested per dosage unit. Although foods containing aspartame could be avoided, it may not be as easy for the phenylketonuric to avoid a drug product containing aspartame, for example, when there is no suitable, alternative drug product. By having the amount on the label, phenylketonurics will know how much phenylalanine they are exposed to from their drug products and limit their exposure from foods accordingly.

Thus, for over-the-counter (OTC) drug products containing aspartame as an inactive ingredient, FDA is proposing new § 201.21 (21 CFR 201.21) to require a warning on their labels alerting people with phenylketonuria that the drug product contains phenylalanine, and the amount of phenylalanine which is

contained in each dosage unit. The principal display panel of OTC drug products containing aspartame, therefore, would be required to contain a statement such as:
"PHENYLKETONURICS: CONTAINS PHENYLALANINE (——) MG PER (DOSAGE UNIT)."

For prescription drug products containing aspartame as a sweetening agent, FDA is proposing in § 201.21 to require that the package label and other labeling providing professional use information to bear a statement to the following effect under the "Warning" section of the labeling in accordance with 21 CFR 201.57(e):
"PHENYLKETONURICS: CONTAINS PHENYLALANINE (——) MG PER (DOSAGE UNIT)." Although people with phenylketonuria may not see the labeling on prescription drugs, their physicians would be alerted to the fact that the drug contains phenylalanine and would take this into consideration when prescribing the drug product and its daily dosage.

The agency advises that manufacturers of all drug products for human use wishing to reformulate their products to add aspartame as an inactive ingredient would be required to comply with the current good manufacturing practice regulations, including 21 CFR 211.166 which requires stability testing to support appropriate storage conditions and expiration dates.

In addition, current holders of new drug applications wishing to reformulate their products to add aspartame as a sweetening agent would be required to submit a supplemental application under 21 CFR 314.8 to provide for the new composition and the appropriate labeling changes. The supplement would also be required to include data available to establish the stability of the revised formulations.

Because there are no drug products currently being marketed that contain aspartame and that would have to be relabeled, FDA believes there is good cause to propose to make § 201.21 effective on the date of its publication as a final rule in the **Federal Register.**

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354), the agency has carefully analyzed the economic consequences of this proposed regulation. Because there are no drug products currently being marketed which contain aspartame as a sweetening agent, FDA cannot determine how many manufacturers would reformulate their products to contain aspartame. However, the agency believes that the proposed labeling requirements would not result in any significant increase in cost to those manufacturers who choose to reformulate their products to include aspartame. Further, this proposed regulation would provide manufacturers of human drug products with an alternative low-caloric sweetner to use in their products. For these reasons, therefore, the agency has determined that the proposed rule is not a major rule as defined in Executive Order 12291. Further, FDA certifies that the proposed rule, if implemented, will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 201

Drugs, Labeling.

PART 201—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 505, 701(a), 52 Stat. 1042–1043, 1049–1055 as amended (21 U.S.C. 331, 351, 352, 355, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 201 be amended by adding new § 201.21, to read as follows:

§ 201.21 Declaration of presence of Phenylalanine as a component of aspartame in over-the-counter and prescription drugs for human use.

(a) Aspartame is a dipeptide composed primarily of two amino acids, phenylalanine and aspartic acid. When these two amino acids are combined to form aspartame, they produce an intensely sweet-tasting substance, approximately 180 times as sweet as sucrose. The Food and Drug Administration has determined that aspartame when used at a level no higher than reasonably required to perform its intended technical function is suitable for use as an inactive ingredient in human drug products, provided persons with phenylketonuria, who must restrict carefully their phenylalanine intake, are alereted to the presence of phenylalanine in the drug product, and the amount of the ingredient in each dosage unit.

(b) The label and labeling of all over-the-counter human drug products containing aspartame as an active ingredient shall bear a statement to the following effect: Phenylketonurics: Contains Phenylalanine(——)mg Per (Dosage Unit).

(c) The package labeling and other labeling providing professional use information concerning prescription drugs for human use containing aspartame as an inactive ingredient shall bear a statement to the following effect under the "Warning" section of the labeling, as required in § 201.57(e): Phenylketonurics: Contains Phenylalanine(——) mg Per (Dosage Unit).

(d) Holders of approved new drug applications who reformulate their drug products under the provisions of this section shall submit supplements under § 314.8(d) of this chapter to provide for the new composition and the labeling changes.

Interested person may, on or before February 6, 1984, 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.

Dated: September 26, 1983

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-32643 Filed 12-7-83; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF STATE

22 CFR Part 41

[SD-186]

Issuance of Nonimmigrant Visas

AGENCY: Department of State.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend § 41.125(g) by modifying the existing procedures under which nonimmigrant visas issued pursuant to section 101(a)(15) (E), (H), (I), and (L) of the Immigration and Nationality Act, as amended, may be revalidated in the United States in certain circumstances. The amendment would limit revalidation service to nonimmigrant aliens in the E, H, I and L categories who are employed by organizations identified by their countries' missions as entities of the government of the alien's country of nationality. Limitation of this service will provide more expeditious processing of nonimmigrant visa

services to foreign diplomatic officials and employees of international organizations for whom the revalidation service was originally intended. The amendment will greatly decrease the volume of work now dedicated to aliens in E, H, I, and L categories because many of these aliens will be ineligible to obtain such services under the new rule.

DATES: Written comments received by the Department prior to close of business January 20, 1984 will be considered.

ADDRESS: Written comments should be addressed to the Director, Office of Legislation, Regulations and Advisory Assistance, Visa Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20520, (202) 632-1900.

SUPPLEMENTARY INFORMATION: Section 41.125(g) authorizes the Deputy Assistant Secretary for Visa Services and such other officers of the Department of State as he may designate for such purpose to revalidate nonimmigrant visas for aliens in certain nonimmigrant classifications who meet the requirements set forth in that section. The original purpose of the authority conferred by this section was to provide nonimmigrant visa revalidation services to foreign government officials and to international organization aliens. In recent years, however, the volume of applications for revalidation of nonimmigrant visas received by the Department from other aliens in the United States has been steadily increasing to the point that it is now interfering with the original intent for orderly and expeditious processing of requests for services by foreign government officials and international organization employees. In addition, because of the greatly increased volume and large back-log of these applications, processing of the applications in Washington is no longer the convenience it once was to such aliens resident in the United States. In fact, many such aliens are seriously inconvenienced and must delay departures from the United States because their passports are either in transit or awaiting their turn to be processed. In addition, during the last decade, the Department has experienced a yearly 10 to 15 percent growth rate in the issuance of A, C-2/3, G and NATO visas, with a continued increase anticipated despite recent issuance of visas with longer periods of validity. This increase and greater demand in other services are creating back-logs and therefore delays in the adjudication of requests for change of status of holders of other nonimmigrant visas who wish to acquire diplomatic or international organization status.

The Department is of the opinion that limitation of the stateside revalidation service for applicants in E, H, I and L status would not adversely affect their ability to conduct business, remain in the United States or travel abroad, except in a few cases where it might be necessary for aliens who had traveled abroad to obtain new visas if the previous visas had expired prior to their return to the United States. However, consistent with the original intent of this regulation to offer visa revalidation services to foreign government officials and international organization aliens, the Department proposes to continue to offer such services to E, H, I, and L nonimmigrant aliens who are employed by an organization which is an entity, as defined in this rule, of the government of the country of the applicant's nationality. As proposed, section 41.125 would be amended as follows:

List of Subjects in 22 CFR Part 41

Border crossing cards, Nonimmigrant visas, Aliens.

Part 41—[AMENDED]

In section 41.125, add new paragraph (g)(2)(ii)(*c*) to read:

§ 41.125 Revalidation of visas.

* * * * *

(g) *Revalidation in the United States in certain cases.* * * *

(2) * * *

(ii) * * *

(*c*) In the case of applicants in (E), (H), (I), and (L) status, they are employed by entities of the government of the countries of the applicants' nationality, such entities being defined as "organizations which are under the effective control and direction of those governments; which are certified as being under the control and direction of the governments by the countries concerned; and which are recognized and accepted by the Department as being under such control and direction"; and

* * * * *

(Sec. 104, 66 Stat. 1743; 8 U.S.C. 1104; Section 109(b)(1), 91 Stat. 847)

Dated: November 8, 1983.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83-32242 Filed 12-7-83; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Review of State Program Amendments

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

ACTION: Reopening and extension of public comment period.

SUMMARY: OSM is reopening the period for review and comment on revised regulations submitted by the State of Maryland to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading. Specifically, OSM is reopening the comment period to allow the public sufficient time to consider and comment on: (1) Information submitted by the State on November 23, 1983, to clarify its proposed regulations initially submitted on October 28, 1982, and (2) three additional regulation modifications also submitted on November 23, 1983.

DATE: Written comments not received on or before 4:00 p.m. on December 23, 1983, will not necessarily be considered.

ADDRESS: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

See **"SUPPLEMENTARY INFORMATION"** for addresses where copies of the Maryland program amendment and administrative record on the Maryland program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, Office of Surface Mining

Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION: Copies of the Maryland program amendment, the Maryland program and the administrative record on the Maryland program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5315, Washington, D.C. 20240, Telephone: (202) 343–7896.

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136.

In addition, copies of the amendment are available for inspection and copying during regular business hours at the following location: Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505, Telephone: (303) 291–4009.

The Maryland program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

On October 28, 1982, the State submitted certain proposed regulations (Administrative Record No. MD 194) to replace those contained in its approved program. The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading. On Novembr 16, 1982, OSM published a notice in the **Federal Register** to announce receipt of the amendments, public comment period and opportunity for public hearing (47 FR 51590). The public comment period closed on December 16, 1982. A public hearing scheduled for December 7, 1982, was not held because no one expressed an interest in participating. Following this opportunity for a public hearing and the public comment period, OSM met with the State on May 19, 1983, and presented to the State its tentative findings and possible deficiencies of the proposed regulations (Administrative Record No. MD 216).

On October 21, 1983, the State submitted revisions to correct the deficiencies contained in the October 28, 1982, amendment (Administrative Record No. MD 219). Following this submission, OSM reopened the public comment period on November 7, 1983 (48 FR 51158). That comment period closed on November 22, 1983.

The comment period being announced today is to provide the public sufficient time to consider additional information submitted by the State on November 23, 1983, to clarify its proposed regulation modifictions and to consider three additional regulation modifications. (Administrative Record No. MD 226). The three additional rule modifications fall within the areas of revision described above and were submitted by the State to correct deficiencies presented by OSM to the State on May 19, 1983.

In accordance with the provisions of 30 CFR 732.17, OSM is reopening the public comment period and is seeking comments on the substantive adequacy of the proposed regulations.

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

Dated: December 2, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83-32855 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 89

[CGD 83–028]

Inland Navigation Rules: Implementing Rules

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule.

SUMMARY: The Coast Guard is proposing to specify certain waters upon which Rules 9(a)(ii), 15(b), and 24(i) of the Inland Navigational Rules Act of 1980 will be made applicable. In late 1985, the Western Rivers, as defined by Inland Rule 3, will be connected to the Tennessee-Tombigbee Waterway and several other rivers. This rulemaking would enhance navigation safety by extending the Western Rivers provisions of the Inland Rules to these connecting water.

DATE: Comments must be received on or before March 7, 1984.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44), (CGD 83–028), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593. Comments may be delivered to and will be available for inspection and copying at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 4402, 2100 2nd St., SW., Washington, D.C. between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Kent Kirkpatrick, Marine Information and Rules Branch, Office of Navigation, (202) 245–0108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 83–028), and the specific section to which their comments apply, and give reasons for each comment. Receipt of each comment will be acknowledged if a stamped self-addressed envelope or postcard is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held if requested by anyone raising a genuine issue.

Drafting Information

The principal persons involved in the drafting of this proposal are LCDR Kent Kirkpatrick, Project Manager, Office of Navigation, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Regulations

The Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–2073) establishes navigation rules that apply to all vessels operating on the inland waters of the United States and on the Great Lakes to the extent that there is no conflict with Canadian law. Inland Rules 9(a)(ii) and 15(b) are unique because they apply only to the Great Lakes, Western Rivers, or waters specified by the Secretary of the department in which the Coast Guard is operating. Rule 24(i) is also unique because it applies only to the Western Rivers or waters specified by

the Secretary. These three Rules constitute the special provisions for navigation on the Western Rivers. The term "Western Rivers" is defined by Rule 3(1) as essentially the Mississippi River and its tributaries. The Secretary has delegated the authority to implement the Inland Rules to the Commandant of the Coast Guard.

The Tennessee-Tombigbee Waterway will be connected to the Tennessee River in late 1985. The Tennessee River is a tributary of the Mississippi River. therefore, it is defined as a Western River subject to the special provisions in Rules 9(a)(ii), 15(b), and 24(i). The Tennessee-Tombigbee Waterway, however, does not fit the Western Rivers definition. Unless the special Western Rivers provisions are extended to the Tennessee-Tombigbee Waterway, navigators will be required to operate under different sets of rules.

When the Tennessee-Tombigbee Waterway is connected to the Tennessee River, vessels will be able to navigate from the Ohio River to Mobile, Alabama, without travelling on the Mississippi River. The type of vessel traffic which will use this route will be similar to the type of traffic which now transits the Western Rivers. Also, much of this new route will resemble the Western Rivers in physical characteristics. It would be confusing and impractical for a vessel navigating on the Western Rivers to have to change its lighting and philosophy of operation when utilizing this new route.

A vessel travelling to Mobile, Alabama, from the Ohio River using the new route will transit the Tennessee River, the Tennessee-Tombigbee Waterway, the Tombigbee River, and the Mobile River. The Black Warrior River joins the Mobile River and the Coosa and Alabama Rivers empty into the Mobile River. It would be similarly confusing and impractical to apply different navigation rules in these connecting rivers.

The Rules of the Road Advisory Council, at the December 7, 1982, meeting, recommended that the Coast Guard initiate rulemaking to extend applicability of Rules 9(a)(ii), 15(b), and 24(i) to the above-mentioned waters. The Council also recommended that the Apalachicola, Flint, and Chattahoochee Rivers receive a similar designation. These waters are similar to the Western Rivers in many respects. The uniform application of the Western Rivers provisions on these similar bodies of water would enhance navigation safety.

This document proposes to restructure Part 89. A new Subpart A would contain the existing alternative compliance procedures and a new Subpart B would designate those waters on which Rules 9(a)(ii), 15(b), and 24(i) apply.

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under Department of Transportation "Policies and Procedures for Simplification, Analysis, and Review of Regulations," (DOT Order 2100.5 of May 22, 1980). The proposed regulations change operating procedures and have no economic impact upon the users. Since the economic impact is expected to be minimal, the Coast Guard has determined that no further evaluation is necessary. This proposed rulemaking contains no information collection or recordkeeping requirements.

Pursuant to Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96-354) it is hereby certified that this proposed action would not have a significant economic impact upon a substantial number of small entities since no new costs are associated with this rulemaking.

List of Subjects in 33 CFR Part 89

Navigation (water), Waterways.

PART 89—INLAND NAVIGATION RULES: IMPLEMENTING RULES

For the reasons stated above, the Coast Guard proposes to amend Part 89 of Title 33, Code of Federal Regulations as follows:

1. Revise the Table of Contents to Part 89 to read as follows:

Subpart A—Certificate of Alternative Compliance

Sec.

89.1 Definitions.
89.3 General.
89.5 Application for a certificate of alternative compliance.
89.9 Certificate of alternative compliance: Contents.
89.17 Certificate of alternative compliance: Termination.
89.18 Record of certification of vessels of special construction or purpose.

Subpart B—Waters Upon Which Certain Inland Navigation Rules Apply

89.21 Purpose.
89.23 Definitions.
89.25 Waters upon which Inland Rules 9(a)(ii), 15(b), and 24(i) apply.

Authority: Sec. 3, Pub. L. 96-591, 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

2. Add a new Subpart A heading immediately preceding § 89.1 to read as follows:

Subpart A—Certificate of Alternative Compliance

§ 89.1 [Amended]

3. In the first sentence of § 89.1, change the word "part" to the word "subpart."

4. Add a new Subpart B following § 89.18 to read as follows:

Subpart B—Waters Upon Which Certain Inland Rules Apply

§ 89.21 Purpose.

Inland Navigation Rules 9(a)(ii), 15(b), and 24(i) apply to the "Western Rivers", as defined in Rule 3(1), and to additional specifically designated waters. The purpose of this subpart is to specify those additional waters upon which Inland Navigation Rules 9(a)(ii), 15(b), and 24(i) apply.

§ 89.23 Definitions.

As used in this Subpart:

"Inland Rules" refers to the Inland Navigation Rules contained in the Inland Navigational Rules Act of 1980 (Pub. L. 96-591, 33 U.S.C. 2001 et seq.) and the technical annexes established under that act.

§ 89.25 Waters upon which Inland Rules 9(a)(ii), 15(b), and 24(i) apply.

Inland Rules 9(a)(ii), 15(b), and 24(i) apply on the following waters:

(a) Tennessee-Tombigbee Waterway;
(b) Tombigbee River;
(c) Black Warrior River;
(d) Alabama River;
(e) Coosa River;
(f) Mobile River as far south as the Cochrane Bridge at St. Louis Point;
(g) Flint River;
(h) Chattahoochee River; and
(i) The Apalachicola River as far south as the John Gorrie Memorial Bridge.

Date: November 9, 1983.

T. J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation

[FR Doc. 83-32699 Filed 12-7-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7 83-14]

Drawbridge Operation Regulations; New Pass, Sarasota County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Public hearing on proposed regulation.

SUMMARY: The Commander, Seventh Coast Guard District has authorized a

joint public hearing to be held with the Florida Department of Transportation to receive comments on a proposal to allow the State Road 789 drawbridge over New Pass, mile 0.5, at Sarasota to remain closed to navigation until the new bascule bridge presently under construction is completed in May 1985. The proposal was precipitated by a major structural failure of the bridge on October 17, 1983. This hearing is being held to gather information and data necessary to evaluate the effects on navigation and attempt to resolve any differences between various factions who support or oppose the proposed regulation.

DATES: (a) The hearing will be held on January 17, 1984. (b) Written comments may be submitted on or before February 17, 1984.

ADDRESSES: (a) The location of the hearing will be the Civic Center Exhibition Hall, 801 North Tamiami Trail, Sarasota, Florida 33578.

(b) Written comments may be submitted to and will be available for examination from 7:30 a.m. to 4:00 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Seventh Coast Guard District, 51 SW. First Avenue, Room 816, Miami, Florida 33130. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator (305) 350-4108.

SUPPLEMENTARY INFORMATION: The hearing will be informal. Representatives from the Coast Guard and the Florida Department of Transportation will preside at the hearing, make brief opening statements describing the proposed regulation, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Contact Officer listed above by January 6, 1984. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulation by submitting their comments in writing. Each comment should state reasons for support or opposition to maintaining the bridge in a closed position, and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on the proposed regulation.

After the time set for the submission of comments, the Cammander, Seventh Coast Guard District will determine a final course of action. If significant opposition is generated by the proposal, the district commander will forward the record, including all written comments and his recommendations, to the Commandant, United States Coast Guard, for final action.

(33 U.S.C. 499; U.S.C. 1655(g)(2); 49 CRF 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: November 28, 1983.

A. D. Breed,

Acting, Captain, U.S. Coast Guard, Seventh Coast Guard District.

[FR Doc. 83-32700 Filed 12-7-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD-FRL 2483-7; Docket No. A-79-01]

Stack Height Regulations Remand; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The United States Court of Appeals recently ordered EPA to revise the stack height regulations (40 CFR P 4.51) promulgated on February 8, 1982, at 47 FR 5864. *Sierra Club and N.R.D.C. v. E.P.A.*, Nos. 82-1384 *et al.* (D.C. Cir., October 11, 1983). To give members of the public an opportunity to assist EPA in implementing the mandate of the Court, EPA will hold a public meeting at the time and place listed below. Following the meeting, interested parties may submit additional comments in writing. These written comments must be received no later than December 29, 1983.

DATE: December 19, 1983 at 10:00 a.m.

ADDRESSES: Room S-353, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Background material for this action is located in Docket No. A-83-49, West Tower Lobby Gallery 1, U.S. Environmental Protection Agency, Central Docket Section, 401 M Street, SW., Washington, D.C. 20460. The docket may be examined between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for photocopying.

All written comments should be submitted (in duplicate, if possible) to: Central Docket Section (LE 131), Docket No. A-83-49, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. David Stonefield, Control Programs Development Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Telephone: (919) 541-5540.

SUPPLEMENTARY INFORMATION:

Matters To Be Considered

Pursuant to Section 123 of the Clean Air Act, EPA must promulgate regulations that assure that the degree of emission limitation required for the control of any air pollutant under an applicable State Implementation Plan is not affected by that portion of any stack height which exceeds good engineering practice (GEP) or by any other dispersion technique. Regulations to implement Section 123 were proposed on January 12, 1979 at 44 FR 2608 and reproposed on October 7, 1981 at 46 FR 49814. Final regulations were promulgated on February 8, 1982 at 47 FR 5864.

In *Sierra Club and N.R.D.C v. E.P.A.*, the Court of Appeals affirmed some provisions of the final regulations ("the regulations"), reversed two provisions, and remanded other provisions for reconsideration by the Agency. The meeting will focus on those provisions which were remanded for reconsideration. Participants should organize their presentations according to the subject headings listed below. The descriptions of these subject headings contain specific requests for comment. These requests are intended to focus, but not to limit, the presentations.

1. Definition of "Nearby" as Applied to GEP Demonstrations

Section 123(c) of the Clean Air Act allows emission credit for stack heights which are necessary to avoid downwash, eddies and wakes caused by "nearby" structures and obstacles. Under the regulations, this credit can be calculated either by using a formula or by performing a demonstration. When the formula is used, the regulations limit "nearby" structures to those with 5L (L=the height or width of the structure, whichever is less), but no more than one-half mile, of the source. However, when a demonstration is performed, the regulations make no provision for a "nearby limitation" on structures or obstacles. The Court ordered EPA to apply "the same 'nearby' limitation to

demonstrations as is applied to the formulas."

Request for Comment: In order to apply the "nearby" limitation to demonstrations, EPA must specify what it means for a terrain obstacle, which may be extremely large or have an irregular or poorly-defined shape, to be within 5L or one-half mile. How should EPA determine whether, and to what extent, a particular terrain obstacle is within the "nearby" limitation?

2. Definition of "Excess Concentrations"

Under the regulations, a source may obtain emission credit for a stack height which is greater than the formula height by demonstrating that downwash can be expected to cause "excessive concentrations" of air pollutants in the vicinity of the source. The regulations define "excessive concentrations" as a forty-percent increase over the levels that would exist if the downwash-creating obstacle were not present. The Court remanded the definition of "excessive concentrations" to EPA "with instructions to develop a standard directly responsive to the concern for health and welfare that motivated Congress to establish the downwash exception." The Court further directed EPA to "err on the side of reducing stack height (credit)."

Request for Comments: What criteria should be used to define "excessive concentrations"? Should the national ambient air quality standards and/or the prevention of significant deterioration increments be used in the definition?

3. Demonstrations for Raising Existing Stacks

Under the regulations, a source need not perform a demonstration in order to obtain credit for stack height increases if the resulting stack height is less than the formula height. The Court remanded this policy of automatically granting credits and directed EPA to reconsider it in light of the Court's discussion of the meaning of "excessive concentrations."

Request for Comment: It appears that implementing a demonstration requirement for stack height increases below the formula height may strain the capacity of the nation's fluid modeling laboratories. Is there some method other than fluid modeling by which sources could justify stack height increases below the formula height? And should EPA adopt a policy of not requiring fluid modeling demonstrations for sources whose annual emissions fall below a certain level?

4. Definition of "Dispersion Techniques"

Under Section 123(a) of the Clean Air Act, emission credit cannot be given for excessively tall stacks or for "other dispersion techniques," and under Section 123(b) "the term 'dispersion technique' includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions." The regulations define "dispersion technique" to include the "addition of a fan or reheater to obtain a less stringent emission limitation." However, the regulations expressly exclude three techniques from the definition, including the technique of combining several stacks into one stack. The Court ruled that the Agency's definition is too restrictive and ordered the Agency either to draft a more expansive definition or to show that such a definition would be impossible to administer.

Request for Comment: How should "dispersion technique" be defined? Which techniques, if any, should be excluded from the definition?

5. Tying New Facilities to Pre-1971 Stacks

In its 1979 proposed rulemaking, EPA stated that new facilities would not be given credit for emissions vented through pre-1971 stacks above the GEP height. However, the 1981 reproposal and the 1982 final regulations contained no such prohibition. The Court determined that EPA had failed to justify this change of policy and accordingly remanded the issue to the Agency for explanation.

Request for Comment: Should EPA prohibit new sources from obtaining credit for tying into pre-1971 stack heights?

6. Use of 2.5H Formula for Pre-1979 Stacks

Under the regulations, sources with stacks built prior to 1979 could use the 2.5H formula for calculating the GEP height, while sources built in 1979 or later had to use the more restrictive H+1.5L formula. The Court affirmed the use of the 2.5H formula for pre-1979 sources, but restricted it to sources which could demonstrate actual reliance on the 2.5H formula. Accordingly, the Court directed EPA to reformulate its rule to take actual reliance into account.

Request for comment: How should a source demonstrate actual reliance on the 2.5H formula? What procedures should be adopted to review claims of actual reliance?

The list of speakers for the public meeting will be compiled on December 16, 1983. Anyone wishing to be included on this list should notify Mr. David Stonefield, the information contact, prior to December 16. Requests received after that date will be honored only as time permits. Speakers who intend to present a prepared statement should provide three copies of the statement to the director of the meeting. Oral presentations should be limited to 30 minutes; however, extra time may be allowed at the discretion of the director.

An official recorder will prepare a verbatim transcript of the meeting. The transcript will be placed in Docket No. A-83-49. Supplemental or rebuttal comments may be submitted in writing no later than 4:00 p.m. on December 29, 1983 to: Central Docket Section, Docket No. A-83-49, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments received after December 29 will be considered during the comment period following publication of the proposed regulations. Due to the time schedule specified in the Court order, no extensions of the December 29 deadline can be granted.

List of Subjects in 40 CFR Part 51

Administrative practice and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbons, Carbon monoxide.

December 2, 1983.

John C. Topping, Jr.

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 83-32571 Filed 12-7-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 228

[WH-FRL 2484-3]

Ocean Dumping; Proposed Designation of Site; California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate an ocean disposal site in the San Pedro Basin in the Pacific Ocean near Long Beach, California, for the disposal of drilling mud and cuttings for a period of three years. This action is necessary for the disposal of drilling muds and cuttings from drilling activities at four islands in Long Beach Harbor.

DATE: Comments must be received on or before January 23, 1984.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, D.C. 20460.

The permit application, Draft EIS and correspondence relating to this proposed action are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street SW., Washington, D.C., and

EPA Region IX, 215 Fremont Street, San Francisco, California

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202-755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (the "Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228.

The permitting process for ocean dumping requires two separate actions by EPA: (1) The selection and designation of a site at which those materials may be ocean dumped. (2) The issuance of a permit for the disposal of specific types and amounts of material for a specified period of time.

In the permit issuance procedure, the permitting authority, EPA Region IX in this case, considers the need for the proposed dumping and the environmental acceptability of the specific material for ocean disposal in accordance with the requirements of 40 CFR Part 227. After review of the permit application the permitting authority will issue a public notice announcing a tentative determination and invite public comment on the proposed action. If the tentative determination is to issue a permit, the public notice will include the proposed conditions of the permit, such as volume permitted to be dumped, rate of discharge, and monitoring requirements.

In the site selection and designation process, the generic nature of the waste (e.g., sewage sludge, dredged material, drilling muds and cuttings) is considered, and a site is selected which would minimize the impacts of the particular type of waste proposed for disposal. Site selection is in accordance with 40 CFR 228.5 and 228.6 which give five general criteria and eleven specific factors to be considered in selecting an appropriate site.

The action proposed today deals solely with designation of a site appropriate for the disposal of drilling muds and cuttings found acceptable for ocean disposal in accordance with the requirements of 40 CFR Part 227 of the EPA Ocean Dumping Regulations.

The purpose of this notice is to provide the public an opportunity to comment on the proposed designation, as an EPA Approved Ocean Dumping Site, of a site in the San Pedro Basin for the disposal of drilling mud and cuttings for a period of three years. This action proposes for designation a site to receive drilling muds and cuttings off the coast of California and does not affect permitting for use of the site. The public will have an opportunity to comment on and challenge the issuance of any permit during the permit process defined under 40 CFR Part 221.

A Draft Environmental Impact Statement (EIS) has been prepared on the proposed action. The EIS describes the proposed disposal operation in detail, discusses the alternatives to ocean disposal, and describes the anticipated environmental impacts associated with the proposed disposal. This document is available for public inspection at the addresses given above, and is summarized in the following paragraphs.

EPA Region IX has received an application from THUMS Long Beach Company, 840 Van Camp Street, Long Beach, California 90801, for a special permit to transport and dump material into ocean waters pursuant to the Act. THUMS proposes to dump drilling mud and cuttings from drilling activities at four islands in Long Beach Harbor, where operations are subject to a "no discharge" requirement.

The waste material to be disposed will consist of drilling mud and cuttings of which 75% will be sand and the remainder gravel, silt and clay. Drilling muds are a mixture of materials used to facilitate the drilling process through rock with additives used to counter specific problems encountered in the drilling. The "mud" will be composed of naturally occurring substances (bentonite, lignite and fresh water), to which non-toxic additives (lignosulfonate and soybean oil) have been added to control fluid loss, viscosity, lubricity, and increase weight for drilling at depths in excess of approximately 1000 feet. All muds to be ocean dumped at the proposed site must be acceptable for ocean disposal under the environmental impact criteria of 40 CFR Part 227 of the EPA Ocean Dumping Regulations.

At the peak drilling, the estimated amounts of material to be dumped at sea will be about 60,000 barrels of mud and 20,000 barrels of cuttings *per month*. The peak drilling can generate up to 200,000 yds^3 per year of total waste (cuttings and muds). This peak in drilling is estimated to occur in five to seven years. Dumping may be required at any time, day or night, throughout the period.

The material will be released to the site through pipes provided near the centerline of the disposal vessel's hull. The rate or discharge may be controlled by valves or variation in pump speed.

The proposed site historically was used between 1966 and 1969 for the disposal of drilling mud and cuttings. The site is about 16 nautical miles from the Long Beach Whistle Buoy at the Long Beach opening in the federal breakwater. It is a circle 1.5 nautical miles in diameter, with water depths in excess of 450 fathoms. The center point coordinates are as follows:

33d 34' 30" N., 118d 27' 30"W.

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. These general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The following specific factors have been considered in the proposed designation of this site to assure compliance with the five general criteria.

1. *Geographical position, depth of water, bottom topography, and distance from coast.* The center point, size, and distance from Long Beach Harbor are described above. The nearest landfall is 11 nautical miles from Point Vincente on the mainland and 11 nautical miles from Long Point on Santa Catalina Island. San Pedro Basin ranges from 400 to 495 fathoms deep and consists of block faulting similar to the Basin and Range Province of Eastern California and

Nevada. Slump and slide areas occur in the Basin. The site is off the Continental Shelf and on the Continental Rise.

2. *Location to breeding, spawning, nursery, feeding or passage areas of living resources in adult or juvenile phases.* Although, in general, fish eggs and larvae vary by season over the Southern California Bight depending on the species, the northern anchovy and several rockfish species occur throughout the area most the year.

Because coastal waters are transported in a northern or southern direction, larvae spawned in the coastal area tend to remain there.

The San Pedro Basin fish fauna consists of vertically distributed fish communities including species common to mainland and island shelf areas, mesopelagic deep sea forms, and bathypelagic demersal fishes. Both transient and resident species are found in the Basin. Although Pt. Conception is recognized as a faunal boundary, many of the nearshore species, especially bottom fishes, are found throughout the coast as far north as British Columbia. Many of the deep water species are cool water fishes with centers of distribution lying to the north of the Southern California Bight. Therefore, a distinct southern California fauna does not occur below the thermocline or in the deeper waters off the coastal shelf. Principal sportfish species taken within the general dumpsite region include rockfish, kelpbass and Pacific mackerel. Sport fishing catch data demonstrate that the proposed ocean disposal site is not an area of significant sportfishing activity although the costlines adjacent to the San Pedro Basin and the Catalina Channel to the south do provide important sport fisheries. Commercially important species taken from the general dumpsite area include northern anchovy, jack mackerel, Pacific bonito, and market squid.

Birds within the offshore areas in the San Pedro Channel largely consist of pelagic and littoral species which show a high degree of transiency. These birds feed on epipelagic fishes and a variety of marine invertebrates, either at the surface or by shallow diving.

Disposal activities will temporarily increase turbidity and underwater noise levels above ambient conditions at the dump site. Schooling fish will likely avoid the dump site and immediate area due to these disturbances while disposal operations are in progress.

The northern anchovy, *Engraulis mordax*, exposed to "clouds" of resuspended materials in laboratory tests were repelled by the sediment and actively avoided the turbid water. Ship-produced noise may affect fish behavior and disrupt or frighten fish schools. Therefore, it is reasonable to assume that underwater noise and turbidity produced by disposal activities will tend to frighten fish resulting in their avoidance of the immediate disposal area.

Because this disturbance is temporary, disposal activities will not have a negative impact in schooling fish at the dumpsite.

Within the Southern California Bight, 32 species of marine mammals have been recorded. The Bight is the richest of all temperate water areas in terms of abundances and types.

The most common of these are the California grey whale, common dolphin, pilot whale, Pacific white-sided dolphin, Pacific bottlenosed dolphin, California sea lion, and harbor seal. In addition to these species, 10 others are considered uncommon (or rare) in the region; these are the Minke whale, Sei whale, blue whale, humpback whale, killer whale, sperm whale, northern fur seal, Steller sea lion, the northern elephant seal, and the very rare California sea otter.

Five cetaceans which occur in California waters (California grey whale, blue whale, Sei whale, humpback whale, and sperm whale) are designated as endangered species by the Federal Government. The Guadelupe fur seal is designated rare by the State of California. All marine mammals are afforded protection under the Marine Mammals Protection Act of 1972. Very little literature is available on the possible effects of offshore marine operations on marine mammals. This is likely the result of difficulties inherent in studying the behavior of many of the species in open ocean. A review of the literature indicated that whales generally respond to waterborne sounds from vessels by avoidance while dolphins will either the attracted to the source of the sound or avoid it, depending on the species.

The gray whale is the only endangered species that is likely to transit the area of disposal. There is some indication that gray whales (*Eschrichtius robustus*) will "move off" but stay in the same area unless they are pursued when encountering a vessel. Gray whales have been reported to be attracted by sounds of outboard motors, but there is no evidence to suggest that they are attracted to large vessels.

Dolphins will approach boats and swim in their bow waves. The protocol for the disposal activities calls for the vessel to be stationary when cuttings and drilling muds are disposed; thus, it is not likely that this activity will attract dolphins.

3. *Location in relation to beaches and other amenity areas.* Coastal beaches are 21 miles north and east of the proposed dumpsite. Palos Verdes Peninsula with its rocky shoreline is over 11 miles north and Santa Catalina Island's closest rocky shoreline is 7.5 miles south of the proposed dumpsite. Since subsurface currents at the proposed disposal site move northwest, it is quite unlikely that disposal activities will impact these areas.

4. *Types and quantities of waste proposed to be disposed of and proposed methods of release, including methods of packing the waste, if any.* THUMS' program is to dispose of water-base drilling mud and cuttings that meet EPA criteria. The drilling program will peak in some five to seven years and then taper off. The site is proposed to be designated for only three years, the maximum time for which a permit may be issued. This will permit a reevaluation of the site designation after some use but before the period of peak drilling. At peak drilling, THUMS expects to dump some 60,000 barrels of drilling muds per month. At the peak, THUMS estimates that 20,000 barrels a month of cuttings will be produced. THUMS is planning to use a tankship of American registry to pick up and dispose of the drilling wastes. The tankship they are considering is a 200 ft. motor vessel, a former Navy yard oiler. Depending on the weight of the muds and scheduling, it is anticipated the average load will be about 6,000 barrels. Marine surveyors estimate the unloading capability to be 2,000 barrels per hour. Depending on the weather and ship traffic at the Long Beach entrance to the Harbor, THUMS estimates an average round trip for the disposal vessel will be about six hours, dock to dock. The frequency of the on-site dumping for both mud and cuttings could vary from 6 to 26 times a month. The amount dumped may become nearly 17,000 cubic yards per month at peak drilling.

5. *Feasibility of surveillance and monitoring.* THUMS proposed monitoring program will address: (1) Collection of baseline water quality data; (2) verification of initial mixing zone and fate of drilling muds and cuttings; and (3) semi-annual monitoring of water quality parameters.

The baseline water quality data, which will be collected prior to any disposal at the site, will include determination of pH, dissolved oxygen, suspended solids, salinity, temperature, arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc cyanides, oil and grease, and organohalogens.

Sampling during the discharge will determine the extent of the discharge plume and estimate its fate for the first 12 hours after dumping. Laboratory verification will be made of a transmissivity-mud dilution standardization curve for evaluation of the field collected transmissivity data.

The semi-annual monitoring program undertaken at the site will include all the parameters collected during the baseline survey.

6. *Dispersal, horizontal transport, and vertical mixing characteristics of the area including prevailing current direction, if any.* The water in the Southern California Bight region of the California coast offshore is a mixture of relatively low temperature-low salinity water transported south in the California Current with higher temperature-higher salinity water brought north in the California Undercurrent. The California Current water dominates in the upper few hundred meters of the ocean seaward (west) of the dumpsite. An undercurrent is predominant below 500 m. The prevailing subsurface current movement is toward the northwest, parallel to the coastline. At the 200 to 500 m depth range is a zone of mixed water.

This situation indicates that materials dumped at the proposed site will not be carried toward the coast but will be dispersed in an area parallel to the shore. The presence of two currents moving in opposite directions in the area indicates mixing and dispersion are likely to be rapid.

7. *Existence and effects of current and previous discharges and dumping the area (including cumulative effects).* The last THUMS dumping operation at the site took place in January 1969. Since that time there have been no permitted dumping operations in the site or adjacent to it. At the outset of historic dumping operations, the California Department of Fish and Game had a command patrol boat on-scene with other government and THUMS observers aboard to visually monitor the dumping operations. This vessel and a contract photo-aircraft worked as a team to record the operations. Within minutes after the first static dump, the observers on both crafts could not visually locate the dumpsite except for a marker bouy indicating the spot of discharge. Nothing of a residual nature was observed in the aerial photographs.

During a four year period, Fish and Game patrol boats did random spot checks of the dumping operations without observing residual material in the near surface receiving water column. There have been no known impacts on the organisms at the site based on monitoring during the previous dumping operations.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate users of the ocean.* The proposed dump site is 1.5 nautical miles south of the nearest shipping lane. There are no mineral extraction or desalination activities proposed for the site. There is no fish or shellfish culturing in the area. There are no special scientific or other uses of ocean with which dumping will interfere. Fishing, both commercial and sport, as well as small craft piloting will be slightly disrupted only while the tankship is on station.

9. *The existing water quality and ecology of the site as determined by available data or trend assesssment or baseline surveys.* The area has been extensively studied by the Bureau of Land Management, California Water Quality Control Board, Southern California Coastal Waters Research Project and numerous local universities and other individuals. The results of these studies are incorporated into the permit application § 221.1(f) as historical baseline data.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site.* Data presently available do not support the prospect for introduction or augmentation of populations of nuisance species at the disposal site as a result of disposal activities.

11. *Existence at or in close proximity to the site any significant natural or cultural features of historical importance.* There are no such features at or near the proposed site.

EPA has reviewed this information submitted by the applicant in regard to the characteristics of the proposed site and believes it adequately addresses the environmental features of the site and supports the conclusion that the proposed site is acceptable for the ocean disposal of drilling muds and cuttings.

Thums has proposed a drilling program which would require use of the proposed site for a period of ten years. EPA does not feel that designation of the site for the full period is appropriate at this time. Verification of the mathematical model of the diffusion and fate of the dumped drilling muds and cuttings is a key feature of the Thums' monitoring program, and use of the site for the full ten years is contingent upon the model being verified in the early stages of the disposal operations.

EPA therefore proposes to designate the site for a period of three years, the period for which a permit may be issued, and to limit disposal at the site to a maximum of 100,000 cubic meters per year, which is half the maximum discharge expected over the ten-year period. These limitations will provide ample time to collect data over a long enough time to verify the model for quantities of drilling muds and cuttings within an order of magnitude of the maximum quantity to be discharged over a year. The results of the monitoring program will be reviewed during this period, and, if no evidence of unreasonable degradation is found, the site designation will be extended for an additional seven years or for such shorter period as may be appropriate from the monitoring results.

EPA regulations provide for ambient site monitoring programs as deemed necessary by the Regional Administrator and for evaluation of disposal site impacts based on the results of such programs. See 40 CFR 228.3 and 228.9–228.10. The regulations further provide for modifications in site use or designation based on the results of impact or on changed circumstances concerning use of the sites. see 40 CFR 228.11. Management authority of this site will be delegated to the Regional Administrator of EPA Region IX. Any permittee using the site will be required to conduct an appropriate monitoring program and report the results to EPA.

The California Coastal Commission determined, on September 8, 1981, that ocean disposal of drilling muds within 1000 meters of the coastal zone affects the coastal zone, therefore requires consistency certification. Because dumping of drilling muds and cuttings at the proposed site would not occur within 1000 meters of the coastal zone, the California Coastal Commission has determined this site designation a consistency certification is not required for this site designation.

The designation of the THUMS site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site

designation will only have the effect of providing a disposal site for drilling mud and cuttings from drilling in Long Beach Harbor. Consequently, this proposed rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: November 30, 1983.

Jack E. Ravan,

Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding § 228.12(b)(21) an ocean dumping site for Region IX as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(21) THUMS site—Region IX.

Centerpoint location: 33d 34'30"N., 118d 27'30"W.

Size: 1.5 square nautical miles.

Depth: In excess of 450 fathoms.

Primary Use: Drilling muds and cuttings.

Period of Use: 3 years from effective date of site designation.

Volumes: Not to exceed 100,000 cubic meters per year.

Restriction: Disposal to be limited to drilling muds and cuttings from Long Beach Harbor wells. Permittee must implement monitoring program acceptable to EPA.

[FR Doc. 83-32087 Filed 12-7-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 43

[CC Docket No. 83-1291; FCC 83-546]

Elimination of Annual Report of Miscellaneous Common Carriers (Form P)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This item proposes to eliminate the annual report of miscellaneous common carriers (Form P) in order to reduce unnecessary regulatory burdens on carriers and promote competition.

DATES: Comments are due January 11, 1984 and replies are due January 26, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Warren Lavey, Common Carrier Bureau, (202) 632-6910.

List of Subjects

47 CFR Part 1

Reporting and recordkeeping requirements.

47 CFR Part 43

Reporting and recordkeeping requirements.

Notice of Proposed Rulemaking

In the matter of Elimination of Annual Report of Miscellaneous Common Carriers (FCC Form P); CC Docket No. 83-1291.

Adopted November 23, 1983.

Released: December 5, 1983.

By the Commission.

Introduction

1. Pursuant Section 219 of the Communications Act of 1934, 47 U.S.C. 219, Sections 1.785, 43.21 of the Commission's rules, 47 CFR 1.785, 43.21, and *Adoption of Form P for Common Carriers*, 18 FCC 2d 569 (1969), all miscellaneous common carriers (MCC's) are required to file FCC Form P (Annual Report of Miscellaneous Common Carriers) with the Commission not later than March 31 each year. MCC's are "communications common carriers which are not engaged in the business of providing either a public landline message telephone service or public message telegraph service." 47 CFR 21.2. Of the 57 carriers which filed Form P in 1983, 52 furnish one-way terrestrial transmission of television signals to cable television systems via their own microwave relay facilities. The other 5 carriers provide terrestrial voice and data communications and are known as specialized common carriers (SCCs).

2. Form P has four sections for data: (1) Systems and subscriber date; (2) circuit data; (3) consolidated balance sheet; and (4) income statement. Video-relay MCCs are to complete sections (1), (3), and (4). SCCs are to complete sections (2), (3), and (4). In this Notice, we propose to delete the filing requirement and to eliminate the Form.

Discussion

3. In *Competitive Carrier Rulemaking*, First Report and Order, 85 FCC 2d 1 (1980), Fourth Report and Order, FCC 83-481 (released November 2, 1983), we found that all MCCs and SCCs and certain other classes of carriers are non-dominant. Customers of any such carrier have close substitutes available for that carrier's services, and market forces check that carrier's rates and facilities. We found that customers would benefit from greater flexibility for these carriers in entry, exit, and pricing. Consequently, the Commission found that the public interest requires elimination of unnecessary regulatory burdens on these carriers. Accordingly, we relieved all MCCs and SCCs and certain other classes of carriers of the requirement that they obtain prior authorization for new lines. Also, SCCs and all resellers need not file tariffs, while video-relay MCCs and some other classes of carriers can file tariffs without cost support on 14-days notice. We will continue to receive semi-annual reports from SCCs and MCCs on the type, number, and terminal points of circuits added, construction and/or lease cost, and identity of lessor. 47 CFR 63.07. Because these carriers are non-dominant, the Commission is less concerned about the points and customers they serve and about their financial strength.

4. In 1982 the Commission eliminated Annual Report Form L filed by licensees in the Public Mobile Radio Services and Schedule 57C of Annual Report Form M which pertained to telephone companies' Domestic Public Land Mobile Radio Services. FCC 82-451 (released October 27, 1982), *reconsid.* FCC 83-142 (released April 19, 1983). We determined that the costs of collecting annual data for those licensees outweigh the benefits derived from the availability of these figures to the Commission. The order observed that special data requests and studies can be conducted as needed by the Commission; the private sector can collect data for its own needs. We now

propose a parallel action with respect to MCCs and SCCs.

5. To further our goal of reducing unnecessary regulatory paperwork, we propose to eliminate the Form R reporting requirement for five reasons. First, this action will cause a substantial reduction in the reporting burden and associated costs for SCCs and video-relay MCCs. The time required to complete Form P varies from carrier to carrier. Among the SCCs in 1983, MCI Telecommunications Corp. filed 64 pages and Southern Pacific Communications Co. (now GTE Sprint) filed 27 pages of circuit data; each of these reports provides several thousand figures on airline mileage, type of channel, channel capacity, and number of channels authorized, in service, leased, and available for each pair of points served. Among the video-relay MCCs, Eastern Microwave, Inc. filed 125 pages and Western Tele-Communications Inc. filed 17 pages of systems and subscriber data; each of these reports provides hundreds of items of information on each subscriber, its affiliation with the licensee, the nature of the intelligence transmitted to it, and the governing tariffs. These carriers probably spend hundreds of person-hours annually completing Form P. While some small carriers may be able to complete Form P in less than 20 person-hours, a conservative estimate is that the 57 carriers filing Form P in 1983 spent over 2,000 person-hours on this form. For the small carriers filing Form P, this regulatory burden may be substantial, and it adds to the burdens of new entry.

6. A second reason to eliminate Form P is that the information it supplies is not used by the Commission in compiling any periodic study or report. Nor is this information used frequently in preparing special studies, reviewing applications or tariffs, or responding to complaints. Form P does not provide a comprehensive data base for the analysis of the availability of a service or competition. For example, we do not have the ability to determine which carriers provide video-relay service between two points since the domestic satellite carriers and satellite resellers do not file such data. The appropriate response to this dap does not seem to be more annual reporting by carriers. The level of detail on subscribers, systems, and circuits in Form P seems excessive for analysis of competion; in *Competitive Carrier Rulemaking*, we found that there is a single relevant geographic market of all domestic points and a single relevant product market of all telecommunications services. In evaluating competition, we do not need route-by-route information about lines available, or subscriber-by-subscriber information about intelligence transmitted. Moreover, the financial information in Form P exceeds our regulatory needs.

7. Third, the Commission received data on these carriers' lines and points served in the semi-annual reports filed pursuant to 47 CFR 63.07. These data overlap with Form P and should satisfy our regulatory needs. If additional data are required, we can issue special requests or develop a short periodic reporting requirement.

8. Next, Form P does not provide a reliable data source. The Commission does not audit the figures. The lack of a uniform system of accounts for the reporting carriers gives rise to inconsistencies across companies in the financial figures reported. Many carriers submit incomplete Form Ps, report data based on categories of their own choosing, or submit aggregate data reflecting non-MCC operations.

9. Finally, elimination of Form P may increase competition by decreasing information flows among competitors. *See Competitive Carrier Rulemaking*, FCC 83-481, at 1 n.l, 3 n.3. Trade secret protection may normally attach to information on customers and intelligence transmitted for video-relay MCCs, and on circuits in use and available by pair of points for SCCs. By requiring disclosure of such information, Form P may impair incentives to develop new customers, services, and facilities, and provide a vehicle for collusion.

Regulatory Flexibility Act—Initial Analysis

10. *Reason for Action and Objective.* The Commission is seeking a cost effective procedure that would facilitate the collection of the minimum amount of data required to fulfill our regulatory responsibilities. The policy option under consideration will significantly reduce the amount of data supplied by SCCs and video-relay MCCs. The objective is to eliminate unnecessary regulatory burdens.

11. *Legal Basis.* The authority for this proposed rulemaking is contained in Section 219 of the Communications Act of 1934, as amended, and §§ 1.785 and 43.21 of the Commission's rules, 47 CFR 1.785, 43.21.

12. *Small Entities Affected and Potential Impact.* The impact of the proposed change will be on all SCCs and video-relay MCCs. Existing and potential carriers of these types vary greatly in size and include small entities. The proposed action will greatly reduce the amount of regulatory paperwork associated with providing these services.

13. *Relevant Federal Rules which Overlap, Duplicate or Conflict with this Action.* There are no other federal rules that overlap, duplicate or conflict with this action to our knowledge.

14. *Specific Alternatives That Could Accomplish the Same Objectives.* There are no significant alternatives minimizing impact on small entities that are consistent with the stated objective.

15. *Reporting, Record-Keeping and Compliance Requirements.* This action will not create any new reporting or record-keeping requirements for licensees.

Ordering Clauses

16. This proceeding is instituted pursuant to the provisions contained in 47 U.S.C. 154(i) and 403.

17. Comments must be filed on or before January 11, 1984. Reply comments will be due on or before January 26, 1984.

18. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleading and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231. All

relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information an ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

19. In accordance with the provisions of 47 CFR 1.419(b), an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docker number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. 1919 M Street, NW.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-32649 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 1 and 73

[Gen. Docket No. 81-768]

Selection From Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Action taken herein extends time for the filing of comments and reply comments in response to the *Third Notice* in Gen. Docket No. 81-768. The *Third Notice* proposes establishing a preference for women in the mass media services subject to lottery. Petitioner, American Women in Radio and Television, Inc. ("AWRT") states that additional time is needed to fully prepare comments in this proceeding.

DATES: Comments must be filed on or before January 6, 1984, and reply comments must be filed on or before January 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Office of General Counsel, (202) 254-6530.

Order Extending Time for Filing Comments and Reply Comments

In the matter of Amendment of the Commission's Rules to Allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings; Gen. Docket No. 81-768.

Adopted: December 1, 1983.

Released: December 2, 1983.

By the General Counsel.

1. On September 22, 1983, the Commission adopted a *Third Notice of Proposed Rule Making* ("*Third Notice*") in the above captioned proceeding, 48 F.R. 49069, published October 24, 1983. The *Third Notice* proposes inclusion of women as a group entitled to the benefit of preferences when initial licensing proceedings in the mass media services are conducted by lottery. The dates initially established for filing comments and reply comments were December 5, 1983, and December 27, 1983, respectively.

2. On November 30, 1983, American Women in Radio and Television, Inc. ("AWRT") filed a motion requesting a one month extension for the filing of both comments and reply comments, to and including January 6, 1984, and January 27, 1984, respectively. In support of its request, AWRT states that it has been endeavoring to prepare its comments in this proceeding and make them available to the members of its Executive Committee for review. AWRT notes that it is a voluntary national organization with Executive Committee members residing in more than one city, and states that it appears the necessary reviews cannot be properly completed within the present deadlines. AWRT avers that "as a professional organization dedicated to the advancement of women in the communications field, its comments may be particularly useful to the Commission in its consideration of this Docket."

3. It is the policy of the Commission that extensions of time are not routinely granted.[1] Additionally, the Commission's rules require that motions for extension of time be filed at least seven days before the filing date in question. In emergency situations late-filed motions may be excepted "for a brief extension of time related to the duration of the emergency."[2] In the instant matter, AWRT's request was neither timely filed nor can it be said that an emergency exists. Nonetheless, the Commission finds that the participation of AWRT in this proceeding might well provide a significant addition to the record, and shall therefore grant the requested extension. In accordance with the provisions of § 1.3 of the Commission's Rules, we find sufficient good cause in this regard to warrant a waiver of the time limitations of § 1.46(b).

4. Accordingly, it is ordered, That the motion for extension of time filed by American Women in Radio and Television, Inc. Is granted, and the dates for the filing of comments and reply comments are hereby extended to and including January 6, 1984, and January 27, 1984, respectively.

5. This action is taken pursuant to sections 4(i), 5(c)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.251 of the Commission's Rules.

Federal Communications Commission.

Bruce E. Fein,

General Counsel.

[FR Doc. 83-32653 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Section 1.46(a) of the Commission's Rules.

[2] Section 1.46(b) of the Commission's Rules.

47 CFR Part 76

[Docket No. 83-1292; FCC 83-554]

Amendment of the Commission's Rules With Respect To the Filing of Registration Statements for the Addition of Television Broadcast Stations by Cable Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Cable television operators are required to file registration statements pursuant to § 76.12 of the Commission's Rules if they add a television broadcast station to an operational cable system. The Commission proposes to eliminate this requirement, because cable operators are also required annually to file FCC Form 325, Schedule 2 to report their entire complement of television broadcast stations pursuant to § 76.403 of the Commission's Rules.

DATE: Comments are due by January 11, 1984 and replies by January 26, 1984.

ADDRESSES: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Angela Green, Cable Television Branch,

Video Services Division, Mass Media Bureau, (202) 632-8882.

SUPPLEMENTARY INFORMATION:

Classification

The Federal Communications Commission has determined that this regulatory revision will not impose unnecessary burdens on the economy or on individuals and therefore, is not significant for the purposes of Executive Order 12044.

Environmental Impact Statement

This regulatory revision does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects 47 CFR Part 76

Administrative practice and procedure, Cable television.

Notice of Proposed Rule Making

In the matter of amendment of Part 76, Subpart B of the Commission's Rules and Regulations with respect to the filing of registration statements for the addition of television broadcast stations by cable systems (Section 76.12); MM Docket No. 83-1292.

Adopted: November 23, 1983.
Released: December 5, 1983.

By the Commission.

1. By this notice, we are proposing the elimination of the requirement for cable television systems operators to file registration statements pursuant to § 76.12 of the Commission's Rules, if they add a television broadcast station to an operational cable system.

2. This requirement was adopted in the Commission's *Report and Order in CT Docket No. 78-206*, FCC 78-690, 69 FCC 2d 697, 703-04 (1978). Essentially, it was a refinement of the Commission's more cumbersome certificate of compliance procedure, pursuant to former Section 76.11 of the Rules, which was established in 1972, in its *Cable Television Report and Order*, FCC 72-108, 36 FCC 2d 143, 217 (1972), *recons. granted in part*, FCC 72-530, 36 FCC 2d 326 (1972).[1]

3. In addition to the requirement that cable operators file a registration statement pursuant to § 76.12 of the Rules if they add a television broadcast station, cable operators are also annually required to file FCC Forms 325, Schedule 2, pursuant to § 76.403 of the Commission's Rules, listing their entire complement of television signals as of a specified date. Therefore, much of the information generated by the filings pursuant to § 76.12 of the Rules is presently being duplicated by the information obtained through the use of FCC Forms 325, Schedule 2. This duplication creates substantial paperwork burdens on cable operators and on the Commission's limited staff alike, and it appears to be the type of unwarranted burden the *Regulatory Flexibility Act*, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. §§ 601-602 (1980), seeks to abolish and the sort of unnecessary paperwork that the *Federal Paperwork Reduction Act*, Pub. L. 96-511, 94 Stat. 2812, 44 U.S.C. §§ 3501-3520 (1980), targeted for elimination. Therefore, it is proposed to delete the requirement imposed on cable operators to file registration statements pursuant to Section 76.12 if they add a television signal, and comments are sought concerning what public interest purpose, if any, would be jeopardized by deletion of this requirement?

4. Authority for the rule making proposed herein is contained in sections 4 (i) and (j), and 303(r) of the Communications Act of 1934, as amended. Pursuant to § 1.415 of the Commission's Rules, all interested parties are invited to file written comments on or before January 11, 1984 and reply comments on or before January 26, 1984. In reaching a decision on this matter, we may take into account any other relevant information before us, in addition to the comments invited by this *Notice*, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

5. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state by docket number the proceeding to which it relates. *See* § 1.1231 of the Commission's Rules.

6. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth herein as Attachment A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibililty Analysis. The Secretary shall cause a copy of this *Notice*, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

7. In accordance with the provisions of § 1.419 of the Commission's Rules, an original and five (5) copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional six (6) copies. Members of the general public who wish to express their interest by participating informally in the rulemaking proceeding may do so by submitting one (1) copy of their comments, without regard to form, provided only that the docket number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters, 1919 M Street, NW., Washington D.C.

8. Further information on the procedures to be followed or on the status of this proceeding may be obtained from Angela Green, Cable Television Branch, Video Service Division, Mass Media Bureau, Federal Communications, Commission, 202-632-7480.

[1] Both certification and registration were important at the time, to alert television broadcast stations about signals being carried on the system. This was important since it allowed stations to review cable systems compliance with the Commission's signal carriage restrictions; these restrictions were abolished in 1981.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Attachment A—Initial Regulatory Flexibility Analysis

I. Reason for Action: The proposed action would eliminate the necessity to file a registration statement pursuant to § 76.12 of the Commission's Rules whenever a cable television system adds a television broadcast station. Since the operator is annually required to report its signal complement by filing an FCC Form 325, Schedule 2, pursuant to § 76.403 of the Commission's Rules, the utility of the information generated by the filings pursuant to § 76.12 of the Rules for agency purposes has proved to be minimal. The dual reporting requirement, however, imposes considerable burdens on cable operators, as well as on the agency's staff, in terms of the collection and assimilation of the information generated. Elimination of the requirement would minimize the paperwork burden without adverse consequences to the public.

II. Objective: The Commission proposes to eliminate the requirement that cable television operators file a registration statement, pursuant to § 76.12 of the Rules, if they add a television broadcast station to an operational cable television system.

III. Legal Basis: Action as proposed for this rulemaking is authorized by sections 4 (i) and (j), and 303(r) of the Communications Act of 1934, as amended.

IV. Description, Potential Impact, and Number of Small Entities Affected: The proposed elimination of the filing requirement pursuant to § 76.12 of the Rules would affect all cable television systems that add one or more broadcast signals per year. The proposed action if adopted should result in less paperwork obligations on cable operators and should also reduce the administrative or operating costs of cable systems.

V. Recording, Recordkeeping, and Other Compliance Requirements: The proposed action would reduce the necessity for processing the information presently generated by the requirement to file registration statements pursuant to § 76.12 of the Rules for the addition of television broadcast signals to operational cable television systems.

VI. Federal Rules which Overlap, Duplicate, or Conflict with this Rule: Section 76.403 of the Commission's Rules provides for the periodic filing of FCC Form 325, Schedule 2 by cable television operators on which they report their complement of television broadcast stations as of a specified date.

VII. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives: None.

VIII. Conclusions: The Commission seeks to eliminate any unnecessary burdens on those it regulates. Its preliminary review indicates that the information generated by the requirement to file a registration statement pursuant to § 76.12 of the Rules whenever a cable operator adds a television signal is more efficiently obtained by means of the requirement, pursuant to § 76.403 of the Rules, to file a FCC Form 325, Schedule 2 report disclosing the cable system's entire complement of television signals as of a specified date. Accordingly, the Commission seeks comments from all interested persons regarding the proposed elimination of the former requirement.

[FR Doc. 83-32651 Filed 12-7-83; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 237
Thursday, December 8, 1983

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

Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, December 15, 1983 at 1:45 p.m. and December 16, 1983 at 9:30 a.m. in The Amphitheater of the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C.

The Conference will consider, not necessarily in the order stated, the following agenda items:

1. General debate reflecting the views and opinions of the Members of the Administrative Conference on the question of the appropriate functional role of legislative veto or alternative control devices post *Chadha.*

2. A proposed recommendation on agency structures for review of decisions of presiding officers under the Administrative Procedure Act.

3. Reports of Committee Chairmen on Pending Projects.

4. A proposed statement on agency use of an exception process to formulate policy.

5. A proposed recommendation on use of FOIA for discovery purposes.

Plenary sessions are open to the public. Further information on the meeting, including copies of the proposed recommendations and statement, may be obtained from the Office of the Chairman, 2120 L Street, NW., Suite 500, Washington, D.C. 20037, telephone (202) 254–7020.

Richard K. Berg,
General Counsel.
December 5, 1983.
[FR Doc. 83-32691 Filed 12-7-83; 8:45 am]
BILLING CODE 6110-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement; Historic Preservation Consideration in Soil Conservation Service Conservation Assistance Programs

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: This notice provides information about and invites comment on a proposed Memorandum of Agreement for consideration of historic properties in Soil Conservation Service conservation assistance programs.

DATE: Comments must be submitted on or before January 9, 1984.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Dr. Janet Friedman, 1100 Pennsylvania Avenue NW., Suite 803, Washington DC 20004, (202) 786–0505.

Zry information: The Soil Conservation Service of the United States Department of Agriculture engages in approximately 800,000 technical assistance actions for soil and water conservation on private and public lands each year. Many of these have the opportunity to seriously impact historic properties. This Memorandum establishes a procedure to enable the Soil Conservation Service to integrate historic preservation considerations at the earliest stages of project planning, to include historic preservation planning as part of the Agency's environmental review process and to permit Soil Conservation Service to maintain a positive program for considering historic preservation within the context of the Agency's conservation programs.

Dated: December 5, 1983.
Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 83-32697 Filed 12-7-83; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83–113]

Disqualification Under the Horse Protection Act

AGENCY: Animal and Plant Health inspection Service, USDA.

ACTION: Notice of disqualification.

SUMMARY: This notice is to advise the general public and the horse industry of certain individuals who have been disqualified under the Horse Protection Act, for specified terms, from showing or exhibiting any hourse, and from judging or managing any horse show, exhibition, sale, or auction.

FOR FURTHER INFORMATION CONTACT: Dr. A. E. hall, Chief Staff Veterinarian, Interstate Inspection and Compliance Staff, Federal Building, room 806, 6505 Belcrest Road, Hyattsville, MD 20782 (301/436–8695).

SUPPLEMENTARY INFORMATION: Section 6(c) of the Horse Protection act (15 U.S.C. 1825(c)) provides authority for disqualifying persons from showing or exhibiting any horse, and from judging or managing any horse show, exhibition, sale, or auction. This document gives notice that the following individuals have been disqualified, for the terms specified, from showing or exhibiting any horse, and from judging or managing any horse show, exhibition, sale, or auction:

1. Name: Richard L. Thornton
   Address: Auburn, AL
   Disqualification Period: September 26, 1983, through September 25, 1984
2. Name: Bill Cantrell
   Address: Phenix City, AL
   Disqualification Period: September 26, 1983 through September 25, 1984.

Any person who knowingly fails to obey a disqualification order shall be subject to a civil penalty of not more than $3,000 for each violation. Any horse show, exhibition, sale, or auction, or its management, which knowingly allows

any disqualified person to judge, manage, or participate in a horse show, exhibition, sale, or auction in violation of a disqualification order shall be subject to a civil penalty of not more than $3,000 for each violation.

Done at Washington, D.C., this 2nd day of December 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-32721 Filed 12-7-83; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Targhee Forest Grazing Advisory Board; Meeting

November 30, 1983.

AGENCY: The Targhee National Forest Grazing Advisory Board meeting will be held January 17, 1984, at 1:00 p.m. at the Supervisor's Office, Targhee National Forest, 420 North Bridge St., St. Anthony, ID 83445.

The purpose of the meeting will be for the Board to make recommendations to the Forest Supervisor on range allotment planning and the use of range betterment funds scheduled for fiscal year 1984.

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), this meeting is open to the public. Forest Supervisor John Burns requests that comments from non-board members be withheld until the conclusion of the business meeting.

For additional information, contact Val Cibbs at the Targhee National Forest Supervisor's Office or telephone 208-624-3151.

Charles Sorenson,

Acting Forest Supervisor.

[FR Doc. 83-32631 Filed 12-7-83; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 38978]

Braniff International Airways Employee Protection Program Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 4, 1984, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., December 1, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-32731 12-7-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41638]

Spokane-Alberta Service Case; Postponement of Hearing

Because of a conflict in the work schedule of the undersigned, the hearing in the above-titled case scheduled for December 7, 1983, is postponed. The hearing will commence on December 12, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

The date for exchange of rebuttal exhibits is postponed from December 2, 1983 to December 7, 1983.

Dated at Washington, D.C., December 2, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83-32730 12-7-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Correction

In FR Doc. 83-31980, beginning on page 54087, in the issue of Wednesday, November 30, 1983, on page 54088, in the first column, in the fifth line, "1983" should read "1983".

BILLING CODE 1505-01-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration (EDA)
Title: Public Works Application, including Employment Plan
Form Numbers: Agency—ED-101A; OMB—0610-0011
Type of request: Reinstatement of a previously approved collection for which approval has expired
Burden: 200 respondents; 18,000 reporting hours
Needs and uses: State and local governments use the application to apply for Public Works grants under the Public Works and Economic Development Act of 1965, as amended. The information is used by EDA to assure that applicants meet statutory and program requirements, and for program administration.
Affected Public: State or local government; non-profit institutions
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Timothy Sprehe, 395-3814

Agency: International Trade Administration
Title: Watch Quota Program Forms
Form Numbers: Agency—ITA-321P et al.; OMB—N/A
Type of request: Existing collection in use without an OMB control number
Burden: 7 respondents; 62 reporting hours
Needs and uses: The information requested is required to administer the Watch Duty Exemption Program which affects watch assembly firms located in Guam and the Virgin Islands.
Affected Public: Businesses or other for-profit, small businesses or organizations
Frequency: Quarterly, on occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Marine Sanctuary Research Permits
Form Numbers: Agency—N/A; OMB—0648-0138
Type of request: Revision of a currently approved collection
Burden: 27 respondents; 48 reporting hours
Needs and uses: Persons may request permits to allow them to conduct activities which would otherwise be prohibited in a national marine sanctuary. This information is used to determine if the proposed activity is in compliance with long-term sanctuary management goals.
Affected Public: Individuals or households, state or local governments, business or other for-profit, federal agencies or employees, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Issuance of Certificate to U.S. Fishermen from Republic of Colombia
Form Numbers: Agency—N/A; OMB—N/A
Type of request: New collection
Burden: 25 respondents; 8 reporting hours
Needs and uses: Information is needed to issue certificates to U.S. fishermen interested in fishing in desginated areas of the Caribbean Sea.
Affected Public: Businesses or other for-profit, small businesses or organizations.
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395–3785
Agency: National Oceanic Atmospheric Administration
Title: Relocation Assistance Applications
Form Numbers: Agency—N/A; OMB—N/A
Type of request: Existing Collection in use without an OMB control number
Burden: 1 respondent; 1 reporting hour
Needs and uses: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 authorizes federal agencies to provide benefits to persons that are displaced by the Federal acquisition of their real property. Information gathered is used by NOAA to determine if applicants are eligible for benefits, and if so, the level of benefits to be paid.
Affected Public: Individuals or households, businesses or other for-profit, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395–3785
Agency: Office of the Secretary
Title: Solicitation (Request for Proposal)
Form Numbers: Agency—N/A; OMB—0605–0010
Type of request: Revision of a currently approved collection
Burden: 27,500 respondents; 1,100,000 reporting hours
Needs and uses: The Department contracts for supplies or services to help fulfill its mission. This collection is being revised to include a unique Department of Commerce solicitation. It is needed to obtain proposals for the transfer of operating satellite systems to the private sector.
Affected Public: Businesses or other for-profit, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395–3785
Agency: Patent and Trademark Office (PTO)
Title: Patent Processing
Form Numbers: Agency—PTO FB—A410 et al; OMB—N/A
Type of request: Existing collection in use without an OMB control number
Burden: 15,000 respondents; 197,400 reporting hours
Needs and uses: The information collection is for use by PTO in processing patent applications and assessing the propriety of granting United States patents.
Affected Public: Individuals or households, state or local governments, farms, businesses or other for-profit, federal agencies or employees, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395–3785
Agency: Patent and Trademark Office (PTO)
Title: Trademark Processing
Form Numbers: Agency—PTO 4.1 et al.; OMB—N/A
Type of request: Existing collection in use without an OMB control number
Burden: 15,000 respondents; 59,850 reporting hours
Needs and uses: The information collected is for use by PTO in processing trademark applications and in assessing the merits of registering trademarks.
Affected Public: Businesses or other for-profit, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395–3785
Agency: Patent and Trademark Office (PTO)
Title: Services to the Public
Form Numbers: Agency—PTO 271 et al.; OMB—N/A
Type of request: Existing collection in use without an OMB control number
Burden: 15,000 respondents; 208,800 reporting hours
Needs and uses: The information collected is used to provide services to the public.
Affected Public: Individuals or households, state or local governments, farms, businesses or other for-profit, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Voluntary, required to obtain or retain a benefit
OMB Desk Officer: Ken Allen, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83-32860 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-351-025]

Certain Carbon Steel Products From Brazil; Initiation of Antidumping Duty Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of petitions filed in proper form with the United States Department of Commerce, we are initiating antidumping duty investigations to determine whether certain carbon steel products from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of these actions so that it may determine whether imports of these products are materially injuring, or are threatening to materially injure, a United States industry. If these investigations proceed normally, the ITC will make its preliminary determinations on or before December 27, 1983, and we will make ours on or before April 18, 1984.

EFFECTIVE DATE: December 8, 1983.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp or Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–2438 or 1785.

SUPPLEMENTARY INFORMATION:

The Petitions

On November 10, 1983, we received petitions from United States Steel Corporation, Pittsburgh, Pennsylvania, filed on behalf of the domestic certain carbon steel products industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that

imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegations of sales at less than fair value are supported by comparisons of the constructed values of the subject merchandise with the 1983 average f.a.s. Brazil port prices of certain carbon steel products imported into the United States (as provided by U.S. Department of Commerce statistics). The petitions allege that there are insufficient home market sales of the subject products at prices above the cost of production to determine fair value.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 30 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain carbon steel products and we have found that they meet the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether certain carbon steel products from Brazil are being, or are likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by April 18, 1984.

Scope of Investigations

The merchandise covered by these investigations is hot-rolled carbon steel sheet and cold-rolled carbon steel sheet. This merchandise is described in detail in Appendix A to the notice of "Certain Carbon Steel Products from Mexico; Initiation of Countervailing Duty Investigations" which appears in this issue of the **Federal Register.**

The hot-rolled carbon steel sheet covered by these investigations is a different product from that covered by the ongoing investigations on "hot-rolled carbon steel plate and sheet from Brazil." The sheet in those investigations is the product described as "plate in coil" in Appendix A referred to above.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by December 27, 1983, whether there is a reasonable indication that imports of certain carbon steel products from Brazil are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed according to the statutory procedures.

Dated: November 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-32860 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. C351-021]

Certain Carbon Steel Products From Brazil; Initiation of Countervailing Duty Investigations

AGENCY: International Trade Adminstration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of petitions filed with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Brazil of certain carbon steel products as described in the "Scope of Investigations" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. The petition on cut-on-length carbon steel plate from Brazil has been withdrawn. We are notifying the U.S. International Trade Commission (ITC) of these actions so that it may determine whether imports of the merchandise are materially injuring, or threatening to materially injure, a U.S. industry. If our investigations proceed mormally, the ITC will make its preliminary determinations on or before December 27, 1983, and we will make ours on or before February 3, 1984.

EFFECTIVE DATE: December 8, 1983.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp or Kenneth Haldenstein, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-3428 or 4136.

SUPPLEMENTARY INFORMATION:

Petitions

On November 10, 1983, we received petitions from the United States Steel Corporation (U.S. Steel), Pittsburgh, Pennsylvania, on behalf of the certain carbon steel products industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that manufacturers, producers, or exporters in Brazil of certain carbon steel products receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act) and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, Title VII of the Act applies to these investigations and injury determinations are required.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain carbon steel products, and we have found that the petitions meet those requirements. Therefore, we are initiating countervailing duty investigations to determine whether the manufacturers, producers, or exporters in Brazil of certain carbon steel products, as described in the "Scope of Investigations" section of this notice, receive benefits which constitute subsidies. If our investigations proceed normally, we will make our preliminary determinations by February 3, 1984.

Withdrawal

On November 18, 1983, U.S. Steel withdrew its petition on cut to length carbon steel plate.

Scope of the Investigations

The products covered by these investigations are carbon steel plate in coil, hot-rolled carbon steel sheet, and cold-rolled carbon steel sheet. These products are fully described in Appendix A to the notice of "Certain Carbon Steel Products from Mexico; Initiation of Countervailing Duty

Investigations" which appears in the issue of the **Federal Register.**

Allegations of Subsidies

The petitions alleges that manufacturers, producers, or exporters in Brazil of certain carbon steel products received the following benefits which constitute subsidies:

- Provision of "equity" capital
- Government funds to cover operating losses
- Funding for expansion through Industrialized Products Tax (IPI) rebates
- Fiscal incentives, donations and grants
- Preferential financing from Banco Nacional de Desenvolvimento Economico (BNDE)
- Government assumption of BNDE loans
- FINAME loans
- Government loan guarantees
- Assistance in repaying foreign loans
- IPI credit premium
- Export profit exemption from corporate income tax
- Local tax incentives
- Accelerated depreciation for equipment
- Preferential export financing
  - —Resolution 674
  - —BNDES export financing
  - —Resolution 330
  - —Resolution 68
  - —CIC–CREGE 14–11
  - —Apoio a Exportacao (Proex)
- Incentives for trading companies
- Imput subsidies for charcoal
- Imput subsidies on iron ore
- Imput subsidies on slab
- Reduction of labor compensation paid by state firms
- Tariff reductions for imported steel making equipment
- Preferential supplier credits
- Rail rate subsidies based on payment in steel
- Construction of ports
- Special tax deductions for SIDERBRAS
- Selective devaluation

In the final determination on certain steel products from Brazil (48 FR 2568), we determined that certain of these programs did not confer subsidies on the companies investigated during the 1981 period of review. With one exception, set forth below, we will exmine the programs to determine whether they conferred countervailable benefits during the period of review in the new investigations. We determined that fully indexed FINAME Loans are generally available and consequently not countervailable. Therefore, we will only examine partially-indexed FINAME loans in these investigations.

We also determined that provisions for indexing accounts payable did not confer a subsidy on state-owned companies. We, however, will investigate this allegation because the petition presented new evidence.

Notification to ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by December 27, 1983, whether there is a reasonable indication that imports of certain carbon steel products from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If any of its determinations is negative, that investigation will terminate; otherwise, the investigations will proceed to conclusion.

Dated: November 30, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-32852 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-017]

Certain Carbon Steel Products From Mexico; Initiation of Countervailing Duty Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of petitions filed with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Mexico of certain carbon steel products as described in the "Scope of Investigations" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigations proceed normally, we will make our preliminary determinations on or before February 3, 1984.

EFFECTIVE DATE: December 8, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart S. Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 377–1769.

SUPPLEMENTARY INFORMATION:

Petitions

On November 10, 1983, we received petitions from United States Steel Corporation of Pittsburgh, Pennsylvania, filed on behalf of the U.S. industry producing certain carbon steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that manufacturers, producers, or exporters in Mexico of certain carbon steel products receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to these investigations. The merchandise being investigated is dutiable, and there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require injury determinations. Therefore, under this section the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain carbon steel products, and we have found that the petitions meet those requirements.

Therefore, we are initiating countervailing duty investigations to determine whether the manufacturers, producers, or exporters in Mexico of certain carbon steel products, as described in the "Scope of Investigations" section of this notice, receive bounties or grants. If our investigations proceed normally, we will make our preliminary determinations by February 3, 1984.

Scope of the Investigations

The products covered by these investigations are carbon steel structural shapes, carbon steel galvanized sheet, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, carbon steel plate in coils, carbon steel plate in cut length, and small diameter carbon steel welded pipe. For a further description of these products, see Appendix A of this notice.

Allegations of Bounties or Grants

The petitions allege that manufacturers, producers, or exporters in Mexico of certain carbon steel products receive the following benefits which constitute bounties or grants:

- Provision of equity
- Special loans and loan guarantees
- Preferential tax credits through Certificados de Promocion Fiscal (CEPROFI)
- Tax reductions and exemptions
- Preferential prices for natural gas, oil, and electricity
- Iron ore and coal at preferential terms
- Wage controls
- Preferential financing for promotion of exports through: the Fund for Promotion of Exports of Manufactured Products (FOMEX), Fund for Industrial Development (FONEI), and Encaje Legal
- Import duty reduction
- Tax rebates for exports through tax rebate certificates (CEDI)
- Port facilities
- Preferential state investment incentives

In addition, we will include in these investigations the Mexican government programs which, in prior cases, we have found might confer countervailable benefits; i.e., Guarantee and Development Fund for Medium and Small Businesses (FOGAIN); Mexican Institute for Foreign Trade (IMCE); Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN); National Preinvestment Fund for Studies and Projects (FONEP); National fund for Industrial Promotion (FOMIN); preferential federal and state investment incentives; government financed technology development; preferential vessel, freight, terminal, and insurance benefits; and investment credits for new machinery.

Dated: November 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix A—Description of Products

For purposes of these investigations:

1. the term *"carbon steel structural shapes"* covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and having a maximum cross-sectional dimension of 3 inches or more, as curently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *Tariff Schedules of the United States Annotated (TSUSA).* Such products are generally referred to as structural shapes.

2. the term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0730, 608.1310, 608.1320, or 608.1330 of the *TSUSA.*

3. the term *"hot-rolled carbon steel sheet"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a flat-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or if not in coils, under 0.1875 inch in thickness and over 12 inches in width; as currently provided for in items 607.8710, 607.8720, 607.8730, 607.8740, 607.8320, or 607.8342 of the *TSUSA.* PLEASE NOTE THAT THE DEFINITION OF HOT-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE *TSUSA.*

4. the term *"cold-rolled carbon steel sheet"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a flat-rolled carbon steel product, whether or not corrugated or crimped, whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and in coils or if not in coils, under 0.1875 inch in thickness; as currently provided for in items 607.8320, 607.8350, 607.8355, or 607.8360 of the *TSUSA.* PLEASE NOTE THAT THE DEFINITION OF COLD-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE *TSUSA.*

5. the term *"carbon steel plate in coil"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel plate in coils is a flat rolled carbon steel product in coils, 0.1875 inch or more in thickness and over 8 inches in width, currently provided for in item 607.6610 of the TSUSA.

6. the term *"carbon steel plate cut to length"* covers hot-rolled or cold-rolled carbon steel products, whether or not corrugated or crimped; not in coils; cut to length, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in item 607.6615 of the *TSUSA.* Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rollings are not included.

7. the term *"small diameter carbon steel welded pipe"* covers hollow products of circular cross section of carbon steel, 0.375 inch or more in outside diameter and less than 16 inches in outside diameter, of welded construction, not cold-rolled or cold drawn, and not for use as oil well tubing with wall thickness not less than 0.065 inch, whether or not galvanized, currently provided for in item 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, or 610.3247 of the *TSUSA.*

[FR Doc. 83-32864 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-005]

Cold-Rolled Carbon Steel Sheet From Argentina; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of petititons filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet as described in the "Scope of Investigation" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. A petition on hot-rolled carbon steel sheet has been withdrawn. If our investigation proceeds normally, we will make our preliminary determination on or before February 3, 1984.

EFFECTIVE DATE: December 8, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Petitions

On November 10, 1983, we received petitions filed on behalf of the U.S. industry producing hot-rolled carbon steel sheet and cold-rolled carbon steel sheet. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that manufacturers, producers, or exporters in Argentina of hot-rolled carbon steel sheet and cold-rolled carbon steel sheet receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. The merchandise being

investigated is dutiable, and there are no "international obligations" within the meaning of section 303(a)(2) of the Act which requires an injury determination. Therefore, under this section the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the inititation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on cold-rolled carbon steel sheet and we have found that the petition meets those requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by February 3, 1984.

Scope of the Investigation

The product covered by this investigation is cold-rolled carbon steel sheet. For a further description of this product, see the Appendix A appearing with the notice of "Certain Carbon Steel Products from Mexico; Initiation of Countervailing Duty Investigations," which appears in this issue of the Federal Register.

Withdrawal

On November 18, 1983, United States Steel withdrew their petition on hot-rolled carbon steel sheet.

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Argentina of cold-rolled carbon steel sheet receive the following benefits which constitutes bounties or grants:

- Government equity infusions
- Preferential loans and loan guarantees
- Special tax and import tariff incentives
- Subsidized inputs (wages and material)
- Excessive remission of taxes upon export (reembolso)
- Income tax exemptions based upon export performance
- Preferential export financing
- Higher exchange rates for exporters through use of multiple exchange rates
- Assistance through a special government trade promotion program.

In addition, we will include in this investigation all Argentine programs which, in prior cases, we found might confer countervailable benefits; i.e., incentives for exports leaving from southern ports, and the provision of capital grants.

The petitioner also alleges that the government of Argentina provides bounties and grants to the steel industry by limiting imports, thus artificially raising domestic steel prices. We will not investigate the allegation because we do not view such a practice to be a bountry or grant. Many actions which governments may take may directly or indirectly prove beneficial to particular products or industries. As the courts have noted, not every such action properly can be viewed as a bounty or grant. (*See United States v Zenith Radio Corp.*, 562 F.2d 1209, (C.C.P.A. 1971), *aff'd sub nom, Zenith Radio Corp. v U.S.*, 437 U.S. 443 (1978). It would, in our view, be an extreme and erroneous position to conclude that governmental action which in any way restricts imports of competing products necessarily subsidizes domestic industries producting such products.

Here, the allegation is not that the government has provided some specific monetary benefit upon the product in question (or something equivalent thereto) but that the product has been subsidized by government restrictions, in the importation of competing products in the domestic market. While it may be true that in an abstract economic sense such import restrictions, in lessening competition in the domestic marketplace, do provide some benefits of at least a temporary nature to the domestic producers of the product, that is far from saying that such restrictions properly can be viewed as conferring a bounty or grant within the meaning of the countervailing duty law. To conclude even that petitioner has made a valid prima facie allegation would be tantamount to concluding that every time any government, including the U.S. government, through duties quotas, or otherwise acts to restrict imports of a product competing with a domestically produced product, it necessarily subsidizes. If so, all governments subsidize most products most of the time. Totally apart from the virtually impossible task of attempting to quantify such a benefit for countervailing duty purposes, the absurdity of such a proposition is self-evident and necessarily beyond the intent of the Congress in enacting the countervailing duty law.

Dated: November 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-32665 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-DS-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; American National Watermattress Corp., et al.

Petitions have been accepted for filing from the following firms: (1) American National Watermattress Corporation, 1940 N. Classell, Orange, California 92665, producer of mattresses and accessories (accepted October 21, 1983); (2) Mid West Glove Corporation, 835 Industrial Road, Chillicothe, Missouri 64601, producer of work gloves (accepted October 21, 1983); (3) W.T. LaRose & Associates, Inc., 31 Ontario Street, Cohoes, New York 12047, producer of heating systems and molding presses for plastic materials (accepted October 25, 1983); (4) Brandonhouse Designs, Inc., 8522 National Boulevard, Culver City, California 90230, producer of fabric handbags and wall hangings (accepted October 25, 1983); (5) Sand Manufacturing Corporation, 8775 Production Avenue, San Diego, California 92121, producer of caps, visors and suspenders (accepted October 26, 1983); (6) Mark Controls Corporation, 1900 West Dempster Street, Evanston, Illinois 60204, producer of valves and building control systems (accepted October 27, 1983); (7) Kristin International, Ltd., Box F, Turin, New York 13473, producer of men's and women's jackets, vests, shirts, skirts, sweaters, snowsuits, jogging suits, loungewear, hats, belts, scarves, mittens and tote bags (accepted October 27, 1983); (8) Staneth Corporation, Inc., 560 Lincoln Boulevard, Middlesex, New Jersey 08846, producer of gaskets and packing (accepted October 28, 1983); (9) New Bedford Textile Company, 123 Sawyer Street, New Bedford, Massachusetts 02741, producer of rope (accepted October 28, 1983); (10) Donald G. and Linda G. Scotchmer, Box 262, Pulteney, New York 14874, producer of grapes (accepted October 31, 1983); (11) Tuff-N-Lite, Inc., Box 30400, Amarillo, Texas 79120, producer of hunting decoys

and giftware (accepted November 1, 1983); (12) Bakery Equipment and Service Company, Inc., 1623 North San Marcos, San Antonio, Texas 78291, producer of bakery equipment (accepted November 1, 1983); (13) W. R. Weaver Company, 7125 Industrial Boulevard, El Paso, Texas 79915, producer of hunting telescopes (accepted November 1, 1983); (14) Krogh Pump Company, 515 Harrison Street, San Francisco California 94105, producer of pumps, castings and parts (accepted November 2, 1983); (15) Visual Electronics Corporation, 285 Emmet Street, Newark, New Jersey 07114, producer of engineering furniture and electric motors (accepted November 2, 1983); (16) M. P. Goodkin, Inc., 140–146 Coit Street, Irvington, New Jersey 07111, producer of copy cameras and other graphic arts equipment (accepted November 4, 1983); (17) Presswell Records Manufacturing Company, White Horse Pike and Ehrke Road, Ancora, New Jersey 08037, producer of phonograph records (accepted November 4, 1983); (18) Workers Owned Sewing Company, Inc., Granville Street Extended, Windsor, North Carolina 27983, producer of women's blouses and sleepwear; children's pants, dresses, skirts and blouses (accepted November 4, 1983); (19) A. De Marco, Inc., 391 Lakeside Avenue, Orange, New Jersey 07050, producer of women's dresses, blouses and slacks (accepted November 4, 1983); (20) Flying J Petroleums, Inc., P.O. Box 678, Brigham City, Utah 84302, producer of gasoline, diesel fuel and natural gas (accepted November 4, 1983); (21) Cerveceria India, Inc., Box 1690, Mayaguez, Puerto Rico 00709, producer of beer and other beverages (accepted November 7, 1983); (22) Dexter Manufacturing Company, Inc., 95 Chestnut Street, Providence, Rhode Island 02903, producer of jewelry and souvenirs (accepted November 8, 1983); (23) Oaktron Industries, Inc., 704 30th Street, Monroe, Wisconsin 53566, producer of loudspeakers (accepted November 8, 1983); (24) Nila Manufacturing, Inc., 18135 Napa Street, Northridge, California 91325, producer of women's tops, dresses, skirts and pants (accepted November 8, 1983); (25) Minneapolis Wrought Washer Company, Inc., 1501 W. River Road, North, Minneapolis, Minnesota 55411, producer of metal washers (accepted November 8, 1983); (26) Kusel Equipment Company, 820 West Street, Watertown, Wisconsin 53094, producer of dairy products processing and materials handling equipment (accepted November 8, 1983); (27) Visa-Therm Products, Inc., P.O. Box 486, Bridgeport, Connecticut 06604, producer of motorcycle jerseys, jackets, pants and rainsuits (accepted November 8, 1983); (28) Lake Pleasant Wood Creations, Inc., Box 145, Speculator, New York 12164, producer of wood souvenirs (accepted November 9, 1983); (29) D and B Power, Inc., 204 North Fehr Way, Bayshore, New York 11706, producer of electronic plug-in converters, chargers and power supplies (accepted November 9, 1983); (30) Oneonta Dress Company, Inc., 359 Chestnut Street, Oneonta, New York 13820, producer of women's dresses, blouses, pants and skirts (accepted November 9, 1983); (31) Rockford Products Corporation, 707 Harrison Avenue, Rockford, Illinois 61108, producer of industrial fasteners (accepted November 9, 1983); (32) Rocky Mountain Forest Products Corporation, P.O. Box 777, Laramie, Wyoming 82070, producer of softwood lumber and other wood products (accepted November 9, 1983); (33) Fulford Manufacturing Company, 107 Stewart Street, Providence, Rhode Island 02903, producer of metal stampings and screw machine products (accepted November 10, 1983); (34) McKey Perforating Company, Inc., 3033 South 166th Street, New Berlin, Wisconsin 53151, producer of perforated metal and plastic components (accepted November 10, 1983); (35) The Lima Electric Company, Inc., 200 East Chapman Road, Lima, Ohio 45802, producer of electrical generators (accepted November 10, 1983); (36) S.W. Tube Company, P.O. Box 100, Sand Springs, Oklahoma 74063, producer of metal tubing (accepted November 14, 1983); (37) Marte Company, Inc., 1145 Main Street, Pawtucket, Rhode Island 02860, producer of jewelry (accepted November 14, 1983); (38) Columbia Match Company, 1145 Galewood Drive, Cleveland, Ohio 44110, producer of matchbooks and matchbook machinery (accepted November 14, 1983); (39) The Okonite Company, Inc., Hilltop Road, Ramsey, New Jersey 07446, producer of electrical cable and conductors (accepted November 14, 1983; (40) Karbo Bronze Foundries, Inc., 24 Van Dyke Street, Brooklyn, New York 11231, producer of metal castings (accepted November 14, 1983); (41) Washington Iron Works, Inc., 1500 Sixth Avenue South, Seattle, Washington 98134, producer of logging, board mill and materials handling equipment (accepted November 15, 1983); (42) H & F Knitting Mills, Inc., 59 Scholes Street, Brooklyn, New York 11206, producer of men's, women's and children's sweaters (accepted November 15, 1983); (43) Tred 2, Inc., P.O. Box 440, De Queen, Arkansas 71832, producer of men's women's and children's footwear (accepted November 16, 1983); (44) Heat Transfer Equipment Company, 1515 North 93rd East Avenue, Tulsa, Oklahoma 74115, producer of heat exchangers (accepted November 16, 1983); (45) W.P. Keith Company, Inc., 8323 Loch Lomond Drive, Pico Rivera, California 90660, producer of industrial kilns and furnaces (accepted November 17, 1983); (46) Lang Jewelry Company, 250 Niantic Avenue, Providence, Rhode Island 02907, producer of jewelry (accepted November 17, 1983); (47) Guyco Industries, Inc., 1811 Lefthand Circle, Longmont, Colorado 80501, producer of printed circuit boards, wire harnesses and communication cable (accepted November 18, 1983); (48) NRM Corporation, 400 W. Railroad Street, Columbiana, Ohio 44408, producer of plastic and rubber extruders and tire manfacturing equipment (accepted November 18, 1983); and (49) Nationwide Precision Products, Inc., 925 Exchange Street, Rochester, New York 14608, producer of steel castings and aluminum extrusions (accepted November 21, 1983).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and §315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget

Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 83-32861 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-DR-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Serono Pharmaceutical Partners

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Serono Pharmaceutical Partners, having a place of business at Randolph, Massachusetts, a partial exclusive right to manufacture, use, and sell products embodied in the invention, "Human Growth Hormone Produced by Recombinant DNA in Mouse Cells," U.S. Patent Application 452,783 (filed December 12, 1982). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1 The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed liecense would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: December 1, 1983.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 83-32829 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China To Include a Review of Trade in Category 433 and Controlling Imports in That Category

December 5, 1983.

(1) Soliciting public comment on bilateral textile consultations with the Government of the People's Republic of China concerning trade in Category 433, and

(2) Controlling imports of men's and boys' wool suit-type coasts in Category 433, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on November 30, 1983 and extends through February 27, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On November 30, 1983, pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the people's Republic of China, the Government of the United States requested consultations concerning imports into the United States of wool textile products in Category 433 exported from the People's Republic of China.

Anyone wishing to comment or provide data or information regarding the treatment of Category 433 under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textile and apparel included in this Category, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not certain, comments should be submitted promptly. Comments or information submitted in reponse to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C. and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of these products during the ninety-day period of the following amount:

Category	90-day level of restraint (Nov. 30, 1983–Feb. 27, 1984)
433	4,541 dozen.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve months following the ninety-day consultation period to the following amount:

Category	12-mo. level of restraint (Feb. 28, 1984–Feb. 27, 1985)
433	6,211 dozen.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of wool textile products in Category 433 for the ninety-day period, at level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limit established for Category 433 for the ninety-day period is exceeded, such excess amount, if allowed to enter at the end of the restraint period, shall be charged to the level (described above) defined in the agreement for the subsequent 12-month period.

EFFECTIVE DATE: December 8, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On August 19, 1983 there was published in the **Federal Register** (48 FR 37685) a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1983. The notice document which preceded

that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 433, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Category 433, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of 4,541 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 5, 1983.

Committee for the implementation of Textile agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 8, 1983 entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 433, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began in November 30, 1983 and extends through February 27, 1984, in excess of 4,541 dozen.[1]

Textile products in Category 433 which have been exported to the United States prior to November 30, 1983 shall not be subject to this directive.

Textile products in Category 433 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effctive date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

[1] The level of restraint has not been adjusted to reflect any imports exported after November 29, 1983.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of wool textile products from China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs funtions of the United States. Therefore, these directions to the Commissioner of Customs, which are necesssary for the implementation of such action, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-32726 Filed 12-7-83; 8:45 am]
BILLING CODE 3510-DR-M

Increasing the Import Restraint Levels for Certain Man-Made Fiber Textile Products from Romania

ACTION: Increasing to account for the application of carryforward the limit established for man-made fiber sweaters in Category 645/646 from 201,802 dozen to 213,910 dozen. This adjustment applies to goods produced or manufactured in Romania and exported during 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: The Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania provides, among other things, for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the level in the succeeding year. Pursuant to the terms of the bilateral agreement, as amended, the limit established for Category 645/646 is being increased for the twelve-month period which began on January 1, 1983 to account for the application of carryforward.

EFFECTIVE DATE: December 9, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377-4212).

SUPPLEMENTARY INFORMATION: On February 28, 1983, there was published in the **Federal Register** (48 FR 8325) a letter dated February 22, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established limits for certain specified categories of wool and man-made fiber textile products, including Category 645/646, produced or manufactured in Romania, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the limit established for Category 645/646 to 213,910 dozen.

Dated: December 5, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On February 28, 1983, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of wool and man-made fiber textile products, produced or manufactured in Romania, and exported during 1983, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Effective on December 9, 1983, paragraph 1 of the directive of February 22, 1983 is further amended to include an adjusted limit of 213,910 dozen [2] for man-made fiber textile products in Category 645/646, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1983.

The action taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of man-made fiber textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5

[1] The term "adjustment" refers to those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, which provides, in part that: (1) Specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (2) consultations may be held to adjust levels of restraint for categories not subject to specific limits; and (3) administrative arrangements or adjustments or may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limit has not been adjusted to reflect any imports exported after December 31, 1982.

U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-32725 12-7-83; 8:45 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China To Include a Review of Trade in Category 313 (Cotton Sheeting) and Controlling Imports in That Category

December 6, 1983.

(1) Soliciting public comment on bilateral textile consultations with the Government of the People's Republic of China concerning trade in Category 313 and

(2) Controlling imports of cotton sheeting in Category 313, produced or manufactured in the People's Repubic of China and exported during the ninety-day period which began on November 30, 1983 and extends through February 27, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On November 30, 1983, pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of cotton sheeting in Category 313 exported from the People's Republic of China.

Anyone wishing to comment or provide data or information regarding the treatment of Catagory 313 under the agreement with the People's Repubic of China, or on any other aspect thereof, or to comment on domestic production or availability of textile and apparel included in this category, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of these products during the ninety-day period to the following amount:

Category	90-day level of restraint (November 30, 1983-February 27, 1984)
313	15,386,906 square yards.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve months following the ninety-day consultation period to the following amount:

Category	12-Mo level of restraint (February 28, 1984-February 27, 1985)
313	38,771,418 square yards.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of cotton textile products in Category 313 for the ninety-day period, at level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limit established for Category 313 for the ninety-day period is exceeded, such excess amount, if allowed to enter at the end of the restraint period, shall be charged to the level (described above) defined in the agreement for the subsequent twelve-month period.

EFFECTIVE DATE: December 9, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPLEMENTARY INFORMATION: On August 19, 1983 there was published in the **Federal Register** (48 FR 37685) a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1983. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 313, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 313, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of 15,387,050 square yards.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 6, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 9, 1983 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 313, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on November 30, 1983 and extends through February 27, 1984, in excess of 15,386,906 square yards.[1]

[1] The level of restraint has not been adjusted to reflect any imports exported after November 29, 1983.

Textile products in Category 313 which have been exported to the United States prior to November 30, 1983 shall not be subject to this directive.

Textile products in Category 313 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton textile products from China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-32808 Filed 12-7-83; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for Offshore Dredged Material Disposal Site Designation Related to Channel Modifications for Mobile Harbor, Alabama

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent To Prepare a Draft Supplemental Environmental Impact Statement (DSEIS).

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a DSEIS for designation of a new, large capacity offshore site(s) for disposal of suitable dredged material. In particular, proposed channel modifications to Mobile Harbor, Alabama, could generate as much as 141.2 million cubic yards of new work material and an annual volume of 4.5 million cubic yards of maintenance material for offshore disposal.

2. *Alternatives:* Dredged material disposal options discussed in the project EIS for Mobile Harbor modifications include: Construct island and fill areas in upper and lower Mobile Bay; open-water disposal in the bay and/or Gulf of Mexico; upland disposal; recycle material off existing disposal sites; and shoreline nourishment to abate erosion. Resulting proposed options included creation of a fill area in upper Mobile Bay and offshore disposal in the Gulf of Mexico. The project EIS accomplished an initial screening phase for selection of suitable offshore disposal areas. The DSEIS will provide additional site specific detailed information for the final site designation process.

3. *Scoping Process:* a. An initial public meeting for the Mobile Harbor study was held on 25 April 1967 for the purpose of informing the public about the study and to obtain their views as to desired modifications to the existing project. Due to a request by local interests, study efforts were directed for the next several years to an interim study that addressed the authorization and advanced engineering and design studies for the Theodore Ship Channel part of the Mobile Harbor project. A Final Environmental Impact Statement for the Theodore Ship Channel project was filed with the Council on Environmental Quality on 10 March 1977. Early in 1975 a special committee, which became known as the Mobile Harbor Advisory Committee, was formed for the purpose of providing access to the planning process for a wide cross-section of the various public in the Mobile Region. A second public meeting was held at Mobile, Alabama, on 22 November 1976, with over 140 persons in attendance. In addition to the public meetings and workshops, informal working level meetings were conducted with various environmental agencies and an environmental quality committee to identify problems and needs of the area and to develop measures to enhance environmental quality.

b. Significant issues analyzed in the Mobile Harbor project EIS are associated with construction of a wider and deeper main bay channel and the various techniques of disposal of new work material and maintenance material for the 50-year economic life of the project.

c. The Mobile Harbor EIS was circulated with a Survey Report for review and comment to Federal, State, and local agencies, citizens groups, and interested parties. A late stage public meeting was held on 31 July 1978 and the final EIS was filed with the Environmental Protection Agency on 22 May 1981.

4. *Scoping Meeting:* No additional scoping meetings are scheduled due to the advanced state of the site designation process and the coordination that has taken place to date.

5. *DSEIS Preparation:* It is estimated that the DSEIS will be available to the public in February 1984.

ADDRESS: Questions about the proposed action and DSEIS can be answered by: Mr. K. Paul Bradley, PD–EE, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: December 1, 1983.

Ronald A. Krizman,

Lieutenant Colonel, CE, Acting District Engineer.

[FR Doc. 83-32804 Filed 12-7-83; 8:45 am]

BILLING CODE 3710-R-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Case No. F–009]

Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver From Furnace Test Procedures to Hydrotherm, Inc.

AGENCY: Office of Conservation and Renewable Energy, Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order [Case No. F–009] granting Hydrotherm, Inc. a waiver for its models of furnaces with step modulating controls from the existing DOE furnace test procedures.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–112.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9127; and

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–33, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9513

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order set out below. In the Decision and Order, Hydrotherm, Inc. has been granted a waiver from Decision and Order, Hydrotherm, Inc. has been granted a waiver from the

DOE furnace test procedures for its models of boilers equipped with step modulating controls, permitting the company to use an alternate test method. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Issued in Washington, D.C., November 23, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

Decision and Order of the Department of Energy

Assistant Secretary for Conservation and Renewable Energy.

In the Matter of Hydrotherm, Inc.; Case No. F-009.

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3266, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department of Energy amended the prescribed test procedure regulations, by adding § 430.27, to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. (45 FR 64108, September 26, 1980).

Pursuant to § 430.27(g), the Assistant Secretary shall pubish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

Hyrotherm, Inc. (Hydrotherm) filed a "Petition for Waiver" in accordance with § 430.27 of 10 CFR Part 430. DOE published in the **Federal Register** the Hydrotherm petition and solicited comments, data, and information respecting the petition (48 FR 26528, June 8, 1983). No comments were received. DOE consulted with the Federal Trade Commission on August 9, 1983, concerning the Hydrothem petition.

Assertions and Determinations

Hydrotherm contends that the existing test procedures which provide for testing at only one firing rate will lead to materially inaccurate comparative data when applied to its models of modulating boilers which share two firing rates. Hydrotherm reports a difference in efficiency of two to three percentage points depending on which firing rate is used in the calculation.

Hydrotherm requests that it be permitted to use, as an alternate test procedure, the test procedure prepared for DOE by the National Bureau of Standards (NBS) entitled, "A Test Method and Calculation Procedure for Determining Annual Efficiency for Vented Household Heaters and Furnaces Equipped with Modulating-Type Controls (NBS Interagency Report 82-2497, dated May 1982). This procedure is one which appropriately weighs the two efficiencies depending on the percent of time in each firing mode. DOE believes this method would be more appropriate for the Hydrotherm design of modulating boiler than the currently prescribed higher firing rate provisions.

Since the receipt of Hydrotherm's request, DOE has proposed furnace test procedure amendments to include the NBS test method as the procedure that would be used when testing all furnaces and boilers with modulating controls (48 FR 28014, June 17, 1983). The modulating boiler provisions of the June 17 proposal are the test method outlined in the NBSIR 82-2497. It is the intent of today's decision and order that Hydrotherm be granted the use of the proposed provisions relating to modulating boilers as specified in the June 17, 1983, proposed rule. As with all waivers, today's decision and order expires no later than the effective date of the final rule amendments covering boilers with step modulating controls. Comments received regarding the proposed amendment may result in some changes to the final provisions prescribed for modulating boilers. If this occurs, the final provisions will be applicable to Hydrotherm boilers. Today's grant in no way indicates the adoption by DOE of the proposed amendments prior to completion of the rulemaking process.

It is therefore ordered that:

(1) The "Petition for Waiver" filed by Hydrotherm, Inc. is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4).

(2) Hydrotherm, Inc. shall test its models of boilers equipped with step modulating controls on the basis of the test procedures specified in Appendix N, 10 CFR Part 430, with the addition of the following provisions found in proposed Appendix N (48 FR 28014), 28027, 28030, June 17, 1983):

(i) Section 2.1 and 2.2 of proposed Appendix N, 48 FR 28014, 28027

(ii) Section 3.1 and 3.4 of proposed Appendix N, 48 FR 28014, 28027

(iii) Section 4.5 of proposed Appendix N, 48 FR 28014, 28030.

(3) The waiver shall remain in effect from the date of issuance of this order until the Department of Energy prescribes final test procedures for boilers with step modulating controls.

(4) This is waiver is based upon the presumed validity of statements, allegations and documentary materials submitted by the applicant and commenters. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., November 15, 1983.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-20979 Filed 12-7-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

The Parade Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with The Parade Company (Parade) as a final order of the DOE.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466, (816) 374-2092.

SUPPLEMENTARY INFORMATION: On September 23, 1983, 48 FR 43377, the ERA published a notice in the **Federal Register** that it executed a proposed Consent Order with The Parade Company of Shreveport, Louisiana on August 18, 1983 which would not

become effective sooner than 30 days after publication of that notice. The Consent Order settles alleged regulatory violations brought by the DOE against Parade relating to Parade's compliance with the federal petroleum price and allocation regulations adminstered by DOE and its predecessor agencies as applied to Parade's sales of propane and depropanized NGL during the period February 1, 1975 through January 28, 1981. Under the terms of the Consent Order the company will refund $1,000,000. The funds are to be paid to the DOE for ultimate distribution.

Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. Thirteen states commented. None of the comments objected to the Consent Order, rather the comments suggested that the funds which are not distributed to directly, identifiable, injured customers should be distributed to the states for use in energy related programs. Some of the comments also suggested specific guidelines for use of the funds. ERA has considered these comments and has determined that the Consent Order should be made final without modification. ERA has not yet determined an appropriate distribution for the refunded amount; however, the ERA believes that depositing the funds into a DOE interest bearing escrow account for ultimate distribution is an appropriate disposition of the funds at this time.

Since the DOE received no other comments, the Consent Order as proposed became effective on October 28, 1983 by receipt of notice to that effect by Parade.

Issued in Kansas City, Missouri on the 17th day of November 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 83-32878 Filed 12-7-83; 8:45 am]

BILLING CODE 6450-01-M

DOMA Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to DOMA Corporation of Abilene, Texas. This Proposed Remedial Order alleges pricing and certification violations in the amount of $3,466,675.67 plus interest in connection with the resale and certification of crude oil as provided by 10 CFR Part 212, during the time period November 1973 through June 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 201-E, Dallas, Texas 75247, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Forrestal Building, Room 6F-055, 1000 Independence Ave. SW., Washington, D.C. 20585, in accordance with 10 CFR 206.193.

Issued in Dallas, Texas, on the 3rd day of November, 1983.

Ben J. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-32877 12-7-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Wednesday, November 30, 1983 (48 FR 54097).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503 (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission, Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503 (202) 395-7340.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., December 5, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No. (1)	Form Title (2)	Type of Request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
EIA:								
EIA-782B	Reseller/Retailer Monthly Petroleum Product Sales Report.	Revision	Monthly	Mandatory	Sample of motor gasoline resellers and distillate and residual fuel oil resellers and refiners.	2699	71,577.5	Data are collected on sales prices and volumes for refined petroleum product. Aggregated data are published by EIA in various publications. Data are used to perform analyses and make projections related to energy supplies, demand and prices.
FERC:								
FERC-523	Application for Authorization of the Issuance of Securities or the Assumption of Liabilities.	Extension	On Occasion	Mandatory	Jurisdictional electric public utilities.	45	10,800	Data are needed to carry out the Federal Energy Regulatory Commission's Mandated responsibilities under Sections 19, 20 and 204 of the Federal Power Act pertaining to jurisdictional electric public utilities for the issuance of securities or the assumption of liabilities.

[FR Doc. 83-32719 Filed 12-7-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. G-2999-000, et al.]

Champlin Petroleum Co. et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

December 5, 1983.

Take notice that each of the Applicants listed has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[2]	Pressure base
G-2999-000, June 27, 1983	Champlin Petroleum Co., P.O. Box 1257, Englewood, Colo. 80150.	Sun Oil Co., La Reforma Field, Hidalgo and Starr Counties, Tex.	(3)	
G-4579-025, D, Nov. 21, 1983	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., Keyes Field, Cimarron County, Okla.	(3)	
G-7490-003, D, Nov. 18, 1983	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77253.	Northern Natural Gas Co., Blinebry Oil & Gas Field, Lea County, N. Mex.	(3)	
G-7496-000, D, Nov. 19, 1983	....do	Northern Natural Gas Co., Blinebry Oil & Gas Field, Lea County, N. Mex.	(3)	
CI79-455-001, C, Nov. 10, 1983	Aminoil USA, Inc., 2800 North Loop West, Post Office Box 94193, Houston, Tex. 77292.	Natural Gas Pipeline Co. of America, Block 613, West Cameron Area, Offshore Louisiana.	(3)	
CI81-253-001, Nov. 21, 1983	Getty Oil Co., Post Office Box 1404, Houston, Tex. 77251.	Transcontinental Gas Pipeline Co., High Island Blocks A-446, 447, and 448, Offshore Texas.	(3)	
CI84-88-000, A, Nov. 9, 1983	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	PNG Energy Company, Ship Shoal Block 170, Offshore Louisiana; Ship Shoal Block 181, Offshore Louisiana; Eugene Island Block 215, Offshore Louisiana; South Marsh Island Block 116, Offshore Louisiana; South Marsh Island Block 160, Offshore Louisiana; South Marsh Island Block 236, Offshore Louisiana; Vermilion Block 50, Offshore Louisiana; Vermilion Block 122 and East Cameron Block 128, Offshore Louisiana; West	(3)	14.65

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
		Cameron Block 493, Offshore Louisiana; High Island Block A-270, Offshore Texas; High Island Block A-416, Offshore Texas; Sabine Pass Block 11, Offshore Louisiana, Sabine Pass Block 13, Offshore Louisiana; Brazos Block A-22, Offshore Texas; Eugene Island Block 294, Offshore Louisiana; West Cameron Block 509, Offshore Louisiana; West Cameron Block 493 and 499, Offshore Louisiana; Sabine Pass Block 18, Offshore Texas.		
CI84-89-000, A, Nov. 9, 1983	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Piedmont Natural Gas Company, Ship Shoal Block 170, Offshore Louisiana; Ship Shoal Block 181, Offshore Louisiana; Eugene Island Block 215, Offshore Louisiana; South Marsh Island Block 116, Offshore Louisiana; South Marsh Island Block 160, Offshore Louisiana; South Marsh Island Block 236, Offshore Louisiana; Vermilion Block 50, Offshore Louisiana; Vermilion Block 122 and East Cameron Block 128, Offshore Louisiana; West Cameron Block 493, Offshore Louisiana; High Island Block A-270, Offshore Texas; High Island Block A-416, Offshore Texas; Sabine Pass Block 11, Offshore Louisiana; Sabine Pass Block 13, Offshore Louisiana; Brazos Block A-22, Offshore Texas; Eugene Island Block 294, Offshore Louisiana; West Cameron Block 509, Offshore Louisiana; West Cameron Block 493 and 499, Offshore Louisiana; Sabine Pass Block 18, Offshore Texas.	(1)	14.65
CI84-91-000 (CI61-245-000), B, Nov. 14, 1983.	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001	Columbia Gas Transmission Corp., Ravenswood Field, Jackson County, W. Va.	(4)	
CI84-93-000, B, Nov. 14, 1983	Anderson Petroleum, 830 First Wichita National Bank Building, Wichita Falls, Tex. 76301.	Northwest Central Pipeline Corp., successor to Cities Service Gas Co., East Billings Field, Noble County, Okla.	(5)	
CI84-94-000, B, Nov. 14, 1983	Jones & Pellow Oil Co.	Northern Natural Gas Co., Ne Cedardale Sec. 13-T22N-R17W, Woodward County, Okla.	(10)	
CI84-95-000, A, Nov. 14, 1983	Minoco UAO, Ltd. and Minoco 1980-LPLC Oil and Gas Program, 900 One Lincoln Centra, LB8, 5400 LBJ Freeway, Dallas, Tex. 75240.	Aminoil USA, Inc., Platform Edith in Federal waters, Offshore Calif.	(11)	
CI84-96-000, A, Nov. 14, 1983	ANR Production Co., 5075 Westheimer, Suite 1100, Gallerie Towers West, Houston, Tex. 77056.	Michigan Wisconsin Pipe Line Co., High Island Block A-351 and A-368, Offshore Tex.	(12)	
CI84-97-000, B, Nov. 10, 1983	Lock 3 Oil, Coal & Dock Co., 200 Nine Parkway Center, Pittsburgh, Pa. 15220.	Consolidated Gas Supply Corp., Harrison County, Elk District.	(13)	
CI84-98-000 (CI70-734), B, Nov. 18, 1983.	Diamond Shamrock Exploration Co., P.O. Box 631, Amarillo, Tex. 79173.	Northern Natural Gas Co., Section 66, Block 13, T. & N. O. RR Co. Survey, Ochiltree County, Tex.	(14)	
CI84-99-000, B, Nov. 18, 1983	Paleo Inc., Bennett No. I-365	Consolidated Gas Supply Corp., Crooked Fork, Center District, Gilmer County, W. Va.	(15)	
CI84-100-000 (G-18014), B, Nov. 17, 1983.	Cities Service Oil & Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Texas Eastern Transmission Corp., Old Waverly Field, San Jacinto County, Tex.	(16)	
CI84-101-000, B, Nov. 17, 1983	Alton Skinner, d.b.a. Chase Petroleum, Agent for Continental Reserves 1979-3.	Consolidated Gas Supply Corp., Tenmile District, Harrison County, W. Va.	(17)	
CI84-102-000, B, Nov. 17, 1983	Alton Skinner, d.b.a. Chase Petroleum, Agent for Continental Reserves 1980-0.	Consolidated Gas Supply Corp., Hackers Creek District, Lewis County, W. Va.	(18)	
CI84-103-000 (G-15424), B, Nov. 14, 1983.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Tex. 75221.	West Lake Natural Gasoline Co., Nena Lucia and Lake Trammel Fields, Nolan County, Tex.	(19)	
CI84-107-000 (CI63-1262), B, Nov. 16, 1983.	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77253.	Valley Gas Transmission Co., Yeary Field, Kleberg County, Tex.	(20)	
CI84-105-000, B, Nov. 15, 1983	Adobe Oil & Gas Corp.	Consolidated Gas Supply Corp., Clearfield County, Pa.	(21)	
CI84-106-000, B, Nov. 15, 1983	Horizon Oil & Gas Co., P.O. Box 1020, Dallas, Tex. 75221.	Northern Natural Gas Co., Horse Creek, NW (Morrow Lower), Ochiltree County, Tex.	(22)	

[1] Applicant is filing to change delivery points.

[2] By Partial Release of Gas Purchase Agreement dated September 30, 1983 Cities Service Company (now Cities Service Oil and Gas Corporation), et al and Colorado Interstate Gas Company agreed to release Section 14-5N-9E, Cimarron County, Oklahoma from commitment under Gas Purchase Agreement dated October 21, 1953. The Bradshaw A-1 well, the only well located on said section, was plugged and abandoned January 10, 1983. Last deliveries of gas were made from the Bradshaw A-1 well in December, 1982.

[3] The State CK Well No. 3 is subject to Amoco's Gas Sales Contract with Northern Natural Gas Company dated August 1, 1974, as to gas well gas production only. The New Mexico Oil Conservation Division has reclassified the State CK Well No. 3 from a gas well to an oil well in the Blinebry Oil and Gas Pool.

[4] Not used.

[5] Applicant is filing under Amendatory Agreement dated September 30, 1983, to add additional acreage.

[6] Applicant is filing under Gas Purchase Contract dated January 17, 1980, amended by amendment dated July 15, 1983, to add acreage.

[7] Applicant is filing under Gas Purchase and Sales Agreement dated November 1, 1983.

[8] The last well dedicated to this contract was plugged and abandoned in 1981. There are no future drilling possibilities for this property.

[9] The available supply of natural gas is depleted to the extent that the continuation of service is unwarranted.

[10] The Isaac Garvey No. 1 has not produced gas since November 1969 and prior to that, gas production had declined to such a point that further operation of the well could not be justified as economically feasible.

[11] Applicant is filing under Gas Purchase Contract dated January 1, 1983.

[12] Applicant is filing under Gas Sales Contract dated March 18, 1983.

[13] No production.

[14] Well plugged; oil and gas lease terminated and was released.

[15] Non commercial.

[16] By Letter Agreement dated July 11, 1977, Applicant and Buyer agreed to terminate that certain Gas Purchase Agreement dated February 4, 1959. Last deliveries subject to this Certificate were made in February, 1973.

[17] Well can not produce economically against the high pressure of purchasers gas lines.

[18] Well can no longer be produced economically.

[19] Seller and Purchasers entered into a superseding Casinghead Gas Contract dated and effective January 1, 1982, providing for a percentage of proceeds settlement.

[20] The following leases were dedicated to the basic coniract dated March 8, 1963 and covered under Amoco's Rate Schedule No. 361: Lease No. 16004 (State of Texas Tract 81), Lease No. 160045, (State of Texas Tract 84), and Lease No. 16006 (State of Texas Tract 85). Lease No. 160046 expired in November 1965. Lease Nos. 16004 and 160045 were sold to Laparrita May, effective April 1, 1983.

[21] Depletion.

[22] Hole in casing, low production potential, low reserves do not justify rework expense.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[Fr. Doc. 83-32706 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-32-003]

Colorado Interstate Gas Co.; Proposed Change in FERC Gas Tariff

December 2, 1983.

Take notice that on November 30, 1983, Colorado Interstate Gas Company (CIG) tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1984.

The proposed tariff changes reflect the collection by CIG from certain of its customers of the 12.5 mills per Mcf gas Research Institute (GRI) Adjustment Charge authorized for collection by GRI by Commission Opinion No. 195.

Copies of CIG's filing have been served on CIG's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32707 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-12-000]

Distrigas Corp., Distrigas of Massachusetts Corp.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

December 2, 1983.

Take notice that on November 30, 1983, Distrigas Corporation (Distrigas) tendered for filing Fourteenth Revised Sheet No. 1 to its FERC Gas Tariff and Distrigas of Massachusetts Corporation (DOMAC) on the above date tendered for filing Fourteenth Revised Sheet No. 3A.

Fourteenth Revised Sheet No. 1 and Fourteenth Revised Sheet No. 3A are being filed pursuant to Distrigas' and DOMAC's purchased LNG cost adjustment provision set forth in their respective tariffs. The Distrigas rate change is being filed to reflect in its sales rate to DOMAC a redetermination (decrease) of the price paid for the purchase of LNG from its supplier SONATRACH in accordance with the Distrigas-SONATRACH Agreement for Sale and Purchase of Liquefied Natural Gas, together with and amortization over the six-month period, January 1, 1984 through June 30, 1984, of the balance of the unrecovered purchased LNG cost account.

The DOMAC rate change is being filed to reflect the Distrigas rate change in DOMAC's rates for resale to its distribution customer companies and the amortization over the six-month period, January 1, 1984 through June 30, 1984, of the balance in DOMAC's unrecovered purchased LNG cost account and the GRI surcharge.

Distrigas and DOMAC request that the proposed tariff sheets become effective January 1, 1984, to coincide with the change in LNG costs from SONATRACH.

A copy of this filing is being served on all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 12, 1983. 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 preceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are no file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32708 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-33-001]

El Paso Natural Gas Co., Tariff Filing

December 2, 1983.

Take notice that on November 30, 1983, El Paso Natural Gas Company ("El Paso"), pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in accordance with ordering paragraphs (B) and (C) of the Commission's Opinion No. 195 issued October 28, 1983 at Docket No. RP83-95-000, tendered the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
First Revised Volume No. 1	First Revised Sheet No. 100.
Third Revised Volume No. 2	Twenty-sixth Revised Sheet No. 1-D.
	Thirteenth Revised Sheet No. 1-D.2.
Original Volume No. 2A	Twenty-seventh Revised Sheet No. 1-C.

El Paso states that the tendered revised tariff sheets will serve to reflect the increase in the Gas Research Institute ("GRI") General Research, Development and Demonstration Funding Unit Adjustment component of El Paso's rates for certain sales and transportation services contained in El Paso's First Revised Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A Tariff from the currently effective 0.68¢ per dth (0.72¢ per Mcf) to the 1.18¢ per dth (1.25¢ per Mcf) approved by Commission Opinion No. 195 issued October 28, 1983 at Docket No. RP83-95-000.

El Paso further states that ordering paragraphs (B) and (C) of the Commission's Opinion No. 195 permit jurisdictional members of the GRI to collect the funding unit of 1.25¢ per Mcf, the equivalent in El Paso's rates is 1.18¢ per dth, commencing January 1, 1984. Accordingly, El Paso has requested that the tendered revised tariff sheets be permitted to become effective January 1, 1984.

El Paso also states that copies of the instant filing have been served upon all of its interstate pipeline system customers and 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, D.C., 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before Dec. 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32710 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6948-001]

F and T Services Corp.; Surrender of Preliminary Permit

December 5, 1983

Take notice that F and T Services Corporation, Permittee for the Keystone Lock and Dam Project No. 6948, has requested that its preliminary permit be terminated. The permit was issued on May 5, 1983 and would have expired on November 1, 1984. The project would have been located on the Bayou Teche River in Bayou Teche, ST. Martinville, and ST. Martin Parishes, Louisiana.

The Permittee filed its request on October 31, 1983, and the surrender of the preliminary permit for Project No. 6948 is deemed accepted 30 days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-32709 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7110-001]

Mr. Richard Gresham; Surrender of Preliminary Permit

December 5, 1983.

Take notice that Mr. Richard Gresham, Permittee for N G Boulder Creek #4, Project No. 7110, has requested that its Preliminary Permit be terminated. The Preliminary Permit was issued on September 16, 1983, and would have expired on February 28, 1985. The project would have been located on Boulder Creek within the Coeur D' Alene National Forest in Shoshone County, Idaho.

Mr. Richard Gresham filed the request on October 31, 1983, and the surrender of the preliminary permit for Project No. 7110 is deemed accepted as of October 31, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32715 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7185-001]

Mr. Richard Gresham; Surrender of Preliminary Permit

December 5, 1983.

Take notice that Mr. Richard Gresham, Permittee for NG Rock Creek No. 5, Project No. 7185, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on September 16, 1983, and would have expired on February 28, 1985. The project would have been located on Rock Creek in Shoshone County, Idaho.

Mr. Richard Gresham filed the request on October 31, 1983, and the surrender of the preliminary permit for Project No. 7185 is deemed accepted as of October 31, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32716 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-71-000]

Lawrenceburg Gas Transmission Corp.; Application

December 5, 1983.

Take notice that on November 14, 1983, Lawrenceburg Gas Transmission Corporation (Applicant), 220 West High Street, Lawrenceburg, Indiana 47025, filed in Docket No. CP84-71-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required be the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kennth F. Plumb,

Secretary.

[FR Doc. 83-32711 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-16-000]

National Fuel Gas Supply Corp.; Tariff Filing

December 2, 1983.

Take notice that on November 30, 1983, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fifth Substitute Forty-third Revised Sheet No. 4 and Fifth Revised Sheet No. 137, proposed to be effective January 1, 1984.

National Fuel states that the sole purpose of these revised sheets is to reflect the Commission's Order No. 195 in Article 18 of the General Terms and Conditions of its tariff.

National Fuel states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32712 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-27-000]

Northwest Central Pipeline Corp., Proposed Changes in FERC Gas Tariff

December 2, 1983.

Take notice that on November 30, 1983, Northwest Central Pipeline Corporation (Northwest Central) tendered for filing Alternate Fourth Revised Sheet No. 6; First revised Sheet Nos. 77 through 80 and Second revised Sheet No. 81; and, Original Sheet Nos. 96 through 99 to Original Volume No. 1 and, First Revised Sheet No. 2A, Second Revised Sheet No. 2B and Original Sheet No. 2C; and, Second Revised Sheet No. 91 and Second Revised Sheet No. 219 to Original Volume No. 2 of its FERC Gas Tariff. Northwest Central also alternatively submitted Fourth Revised Sheet No. 6, Alternate First Revised Sheet No. 2A and Alternate Second Revised Sheet No. 2B in the event Fourth Revised Sheet No. 6, First Revised Sheet No. 2A and Second Revised Sheet No. 2B are rejected. The proposed effective date of these revised tariff sheets is December 23, 1983.

Northwest Central states that the filing proposes an increase above its previously filed rates which reflects an increase in revenues of $20,421,096 inclusive of gathering services, based on the test period (the twelve months ended July 31, 1983, adjusted for known changes through April 30, 1984). The alternatively filed tariff sheets reflect rates providing an increase of $7,607,140. Northwest Central states that the increased rates are required to reflect an overall rate of return of 14.91 percent; increases in prepayments for gas; and increases in operating expenses including wages, benefits and administrative expenses.

Northwest Central proposes revisions to Article 21 of the General Terms and Conditions to Original Volume No. 1 of its FERC Gas tariff, as set forth in First Revised Sheet Nos. 77 through 81, to conform Northwest Central's Purchased Gas Adjustment tariff provisions to a sales volume basis methodology.

Northwest Central states that Alternate Fourth Revised and Fourth Revised Tariff Sheet No. 6 also includes a column for rate adjustments pursuant to a prepayment rate adjustment provision proposed as Article 25 of the General Terms and Conditions of Northwest Central's FERC Gas Tariff, Original Sheet Nos. 96 through 99.

Northwest Central also states that First Revised Sheet No. 2A, Second Revised Sheet No. 2B and Original Sheet No. 2C reflect an increase in the presently filed interruptible transportation rate and certain revisions to the transportation rate schedule. Alternate First revised Sheet No. 2A and Alternate Second Revised Sheet No. 2B eliminate certain of the revisions to the transportation rate schedule.

Northwest Central states that this filing was served on each of its customers and affected state commissions pursuant to § 154.16(b) of the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32713 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-72-000]

Northwest Pipeline Corp.; Application

December 5, 1983.

Take notice that on November 15, 1983, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP84-72-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation, sale and exchange of natural gas with Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that it was delivering up to 2,000 Mcf of gas per day to CIG in the Black Butte area of Sweetwater County, Wyoming, pursuant to a Gas Gathering and Transportation Agreement dated March 16, 1978. It is stated that Northwest was gathering and transporting the gas from the Black Butte No. 1 well to CIG's line and that CIG was transporting the gas from that point to an interconnection of the two pipelines in Sweetwater County. Northwest states that it was authorized to sell up to 25 percent of this gas to CIG and to exchange the remaining volumes, with CIG delivering thermally equivalent volumes at the interconnection. It is asserted that the Black Butte No. 1 well was plugged on November 12, 1981, and that the sale of gas from that well was abandoned as were the facilities installed by Northwest to connect the well to CIG's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience

and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32714 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-186-002]

Southern Natural Gas Co., Northern Natural Gas Co., Division of InterNorth, Inc., Application

December 5, 1983.

Take notice that on November 1, 1983, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202 and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, jointly filed in Docket No. CP83-186-002 an amendment to Southern's pending applications in Docket Nos. CP83-186-000 and CP83-186-001 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the proposal to construct an offshore compression platform and the installation and operation of 6,600 horsepower of compression on said platform, together with certain offshore pipeline and onshore measuring facilities, all as more fully set forth in said amendment which is on file with the Commission and open to public inspection.

In Southern's application in Docket No. CP83-186-000, authorization was requested for the construction and operation of a 3,300 horsepower of compression facility at the onshore terminus of the Matagorda Offshore Pipeline System (MOPS) near Tivoli, Refugio County, Texas, in order to provide Southern with approximately 112,600 Mcf per day of additional capacity in MOPS. The compression facility was necessary, it was asserted, in order to accommodate reserves dedicated to Southern in the Matagorda Island Area (MI), offshore Texas, which would be transported through MOPS in addition to the gas supplies already flowing through that line.

In Docket No. CP83-186-001, Southern filed an amendment to its application so as to include a request for authorization to construct and operate one 12-inch meter run and miscellaneous facilities at the existing meter station at the interconnection of Channel Industries' (Channel) and Houston Pipeline Company's (Houston) jointly-owned 30-inch A-S line and MOPS in Refugio County, Texas. Southern stated that the additional facilities were necessary because the existing measurement facilities at the Channel-Houston/MOPS interconnection were not adequate to accommodate the increased volume of gas that would be available for third party transportation once the compression facilities proposed in Southern's application in Docket No. CP83-186-000 were placed in service.

In Docket No. CP83-186-002, Southern and Northern have filed a joint application which would, it is indicated, in effect supersede Southern's pending applications in Docket Nos. CP83-186-000 and CP83-186-001. Southern and Northern request authorization to expand MOPS by constructing an offshore compression platform together with the suction and discharge pipelines connecting the platform with MOPS in MI 686, offshore Texas, and installing and operating two 3,300 horsepower compressor units and appurtenant facilities on said platform in lieu of the one 3,300 horsepower of compression which Southern originally proposed to construct and operate at the onshore terminus of MOPS in Refugio County, Texas. The operation of said facilities, it is stated, would increase the effective capacity of MOPS from 280,000 Mcf of gas per day to 486,000 Mcf per day. Southern and Northern assert that the proposed expansion of MOPS is necessary so that the system would be able to accommodate the quantities of gas presently attached and those quantities of gas expected to be attached to MOPS in the near future. Southern and Northern also request authorization to construct and operate 2,300 feet of 16-inch pipeline bypassing the proposed compression facilities in order to divert around said facilities liquids produced on the production platform in MI 686 and for a limited period of time, liquids produced from MI 703 and 710 as well as certain supplies of gas when the natural flowing pressures of such gas renders compression on the proposed platform unnecessary. Finally, Southern requests authorization to construct and operate certain onshore measuring facilities at the existing meter station located at the interconnection between MOPS and Houston-Channel line in Refugio County, Texas, as further explained in Docket No. CP83-186-001. Southern and Northern estimate the cost of the proposed facilities to be $16,556,500, which cost would be financed initially by short-term financing and/or cash from current operations and ultimately from permanent financing.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32717 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-46-000]

Southern Natural Gas Co.; Application

December 5, 1983.

Take notice that on November 4, 1983, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP84-46-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of gas for sale to Crown Zellerbach Corporation (Crown Zellerbach) and the construction, installation, and operation of certain facilities necessary to effect the sale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant, stating it is experiencing excess deliverability on its system, proposes to sell off-system to Crown Zellerbach on a best-efforts, interruptible basis, pursuant to a gas sales agreement dated September 20, 1983, such volumes of gas as Crown Zellerbach may request, estimated at a maximum daily volume of 12,000 Mcf. It is explained that the sales agreement is for a primary term of one year and would continue in effect through the end of the month in which the primary term terminates and for successive periods of one month until cancelled by Applicant or Crown Zellerbach.

Applicant requests authority to deliver the sales volumes to Crown Zellerbach at a proposed point of interconnection between the facilities of Applicant and Crown Zellerbach in Marion County, Mississippi. Applicant also requests authorization to construct and operate a tap, measurement and regulating facilities, and appurtenant facilities necessary for deliveries to Crown Zellerbach.

Applicant proposes to sell the gas to Crown Zellerbach at an initial price of $3.92405. Applicant states that this price will be redetermined to reflect changes in Applicant's Rate Schedule OCD-1 when calculated at a 100 percent load factor, but would never be less than the higher of Applicant's system average load factor rate or its average Section 102 of the Natural Gas Policy Act of 1978 gas acquisition cost. Applicant states that it would forego the crediting of revenues from the proposed sale and would include a representative level of sales to Crown Zellerbach in determining its rates in its next general rate proceeding.

Applicant estimates the cost of the proposed facilities to be $140,810 which would be financed initially by short-term financing and/or cash from current operations, pending permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-32718 Filed 12-7-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearing and Appeals

Objection to Proposed Remedial Order Filed; Period of October 24 through November 4, 1983

During the period of October 24 through November 4, 1983, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearing and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of the Notice. The Office of Hearing and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearing and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: November 30, 1983.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Texas International Co., Texas International Petroleum Corp. Oklahoma City, OK. HRO-0199, Crude Oil

On October 31, 1983, Texas International Co. and Texas International Petroleum Corp. (TIPCO), 3545 Northwest 58th Street, Oklahoma City, Oklahoma 73112, filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel (OSC) issued to the firms on September 16, 1983. In the PRO, the OSC found that during the period October 1973 through December 31, 1975, Texas International and TIPCO committed violations of 6 CFR 150.34 and 10 CFR 210.32, 210.54, 210.62(c), 212.73, 212.74 in their pricing of crude oil. According to PRO, the Texas International and TIPCO violations resulted in $2,916,630.48 of overcharges.

[FR Doc. 83-33079 Filed 12-7-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL-2483-8]

Modification of General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) Off Southern California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of final modification of general NPDES permit.

SUMMARY: On February 18, 1982, the Regional Administrator, Region 9, Environmental Protection Agency, issued a general National Pollutant Discharge Elimination System (NPDES) permit (No. CA0110516) authorizing discharges from offshore oil and gas facilities operating in Federal waters off Southern California (47 FR 7312). On January 3, 1983 (48 FR 76), EPA proposed to modify this permit to include as authorized discharge sites the tracts which were leased in two recent Minerals Management Service (MMS) lease sales: Lease Sale #68 held on June 2, 1982 and Reoffering Sale #2 (Southern California area) held on August 5, 1982. The new parcels are in the same geographic area as existing parcels, and oil and gas facilities which would operate on these parcels would involve the same types of operations, discharge the same types of wastes, and require the same effluent limitations, operating conditions, and monitoring requirements.

Therefore, EPA concluded these facilities would be more appropriately controlled under the general permit (No. CA0110516) than under individual permits or a separate general NPDES permit.

After reviewing the administrative record for the proposed modification including comments submitted at a public hearing held in Santa Barbara, CA on August 11, 1983, EPA has determined to modify the general permit as proposed (48 FR 76). EPA's responses to comments submitted concerning the proposed modification are found in Appendix A published elsewhere in the Notices section of this issue. The following lease parcels are hereby added to general NPDES permit No. CA0110516 as authorized discharge sites

(by OCS lease parcel number): P-0456, P-0457, P-0459, P-0460, P-0461, P-0462, P-0463, P-0464, P-0465, P-0467, P-0468, P-0469, P-0472, P-0473, P-0474, P-0475, P-0478, P-0479, P-0480, P-0481, P-0482, P-0483, P-0484, P-0485, P-0486, P-0487, P-0488, P-0489, P-0490, P-0491, P-0492, P-0493, P-0494, P-0495, P-0496, P-0497, P-0498, P-0499, P-0500.

EPA has made two changes in the permit regarding CZMA requirements. These changes apply only to facilities commencing operation after the date of this notice. The California Coastal Commission has determined that NPDES activities within 1000 meters of the territorial seas may affect the State's coastal zone. As such, this area is distinct from the rest of the general permit area and EPA is today deleting this area from coverage under the general permit for new operations. Individual permits will be required for all new operations within this area. Condition III.A of the general permit authorizes EPA to require an individual permit for any operation where new information demonstrates that the terms and conditions of the general permit are not appropriate. This condition is intended to include any operation for which the California Coastal Commission has denied consistency concurrence on the facility's exploration or development plan. Accordingly, EPA has changed Condition II.B.8 of the permit to require a consistency determination for any new operation within the revised general permit area and submittal of Coastal Commission concurrence with the determination to EPA prior to operation under the general permit.

Condition II.B.8 is modified to read as follows: "State Coastal Zone Management Plan Consistency. Discharge from drilling vessels, production platforms or other facilities engaged in exploratory drilling or production of oil and gas is prohibited until the plan of exploration or development, for each affected parcel, is determined to be consistent with the Coastal Zone Management Plan by the Coastal Commission of the State of California and the consistency concurrence of the Coastal Commission is submitted to EPA. This provision applies only to facilities commencing operation after the date of this notice."

FOR FURTHER INFORMATION CONTACT: Eugene Bromley, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105. [Telephone (415) 974-8330.]

SUPPLEMENTARY INFORMATION: General NPDES permit No. CA0110516 authorizes discharges from offshore oil and gas facilities operating on currently active lease parcels in Federal waters offshore Southern California. These parcels were leased in Lease Sales #53, #48, #35 and the 1966 and 1968 Federal lease sales. Twenty-nine additional tracts were leased by Minerals Management Service (MMS) of the Department of Interior in the recent Lease Sale #68. These tracts are (by OCS lease parcel number): P-0456, P-0457, P-0459, P-0460, P-0461, P-0462, P-0463, P-0464, P-0465, P-0467, P-0468, P-0469, P-0472, P-0473, P-0474, P-0475, P-0478, P-0479, P-0480, P-0481, P-0482, P-0483, P-0484, P-0485, P-0486, P-0487, P-0488, P-0489, P-0490. Ten additional tracts were leased in Reoffering Sale #2, Southern California area. The numbers of these parcels are (by OCS lease parcel number): P-0491 through P-0500, inclusive. EPA has modified the geographic area covered by the general permit to include authorization to discharge on the tracts awarded in these two lease sales.

The fact sheet accompanying the issuance of the general permit set forth the principal facts and the significant factual, legal, and policy questions considered in the development of the terms and conditions of the permit.

As discussed below EPA believes that these terms and conditions are also appropriate for discharge occurring on the new lease parcels.

1. Geographical Coverage of the General Permit

Section I of the fact sheet discussed the basis for the geographic coverage of the general permit. The Consolidated Permit Regulations provide that the Director of an NPDES permit program modify a NPDES permit upon receipt of any information which indicates substantial additions to permitted activities after final permit issuance (40 CFR 122.62(a)). New lease sales conducted by the MMS authorizing offshore oil and gas activities in the same geographic area covered by a final general NPDES permit are cause for permit modification.

This final modification is a change in the geographic area only and extends authorization to discharge from oil and gas operations to parcels adjacent or nearly adjacent to those already covered by the general NPDES permit. In accordance with 40 CFR 122.22, the effluent limitations, operating conditions and monitoring requirements of the general permit remain the same. Under certain circumstances outlined in Part III.A of the general permit, and individual NPDES permit may be required by the Regional Administrator.

2. 403 Ocean Discharge Criteria

Section 403 of the Clean Water Act requires that an NPDES permit for a discharge into marine waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The Agency's finding under the guidelines were presented in Part III.F. of the general permit fact sheet.

The new parcels are in the same vicinity as the existing parcels and EPA believes that the previous conclusion concerning Ocean Discharge Criteria for the existing parcels are valid for the n ew parcels as well.

The special effluent limitations and operating conditions imposed on drilling muds and cuttings and on produced waters in the general permit should provide adequate protection of the marine environment and not adversely affect marine species or marine communities beyond the immediate area of the discharge.

3. Consistency With California Coastal Zone Management Program

The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally licensed activity affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. This final modification of the general permit will not authorize discharges into the territorial seas of the State of California, nor into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters. The CZMA requires review of exploration and development plans for consistency with the California Coastal Zone Management Plan and, therefore, the permit contains a provision (Condition II.B.8) requiring CZMP consistency review prior to authorization to discharge. This provision requires that operations under the general permit may not be conducted until the plan of exploration or development has been certified to the Coastal Commission of the State of California as consistent with their CZMP and has been concurred upon by that Commission.

As discussed earlier in this notice, CZMA requirements of the modified permit are different in two respects from the original general permit issued in February, 1982. The California Coastal Commission has determined that NPDES activities within 1000 meters of the terriorial seas may affect the State's coastal zone. As such, this area is distinct from the rest of the general

permit area and EPA is deleting this area from coverage under the general permit for new operators. Individual permits are required for all new operations within this area. Also, EPA is changing Condition II.B.8 of the permit to require a consistency determination on a facility's exploration or development plan for any new operation within the revised general permit area and submittal of Coastal Commission concurrence with the determination to EPA prior to operation under the general permit. The new requirements are applicable only to facilities commencing operations after the date of this notice.

The Endangered Species Act requires that each Federal Agency ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their habitats. The MMS has undertaken endangered species reviews including full consultation with the Department of Commerce, the National Marine Fisheries Service and the Department of the Interior's Fish and Wildlife Service, with respect to all oil and gas leasing in the general permit area. Prior to issuance of the general permit EPA concluded that the discharges authorized by the general permit would neither jeopardize the continued existence of any endangered or threatened species nor adversely affect its critical habitat. Both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service concurred with this conclusion.

The proposed modification extends the authorization to discharge to parcels nearby to those on which discharges are currently authorized and within the general area in which the endangered species reviews were conducted. EPA believes that the previous conclusion regarding effects on endangered species is applicable to the new parcels included in this final modification.

5. Economic Impact (Executive Order 12291)

The Office of Management and Budget (OMB) has exempted this action from the review requirement of Executive Order 12291 pursuant to Section 8(b) of that order.

6. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this permit modification under the Paperwork Reduction Act (PRA). The information collection requirements of this permit have been approved by OMB under submissions made for the NPDES permit program under the provisions of the CWA.

7. Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. § 605(b), that this permit modification will not have a significant impact on a substantial number of small entities. Moreover, it reduces a significant administrative burden on regulated sources.

8. Effective Date

The final NPDES general permit modification issued today is effective immediately. Ordinarily, EPA would issue this permit modification and allow 30 days before making the modification effective. However, EPA may, under 5 U.S.C. Section 553(d)(1) make the modification effective immediately because it relieves a restriction on the regulated community by authorizing the discharge of pollutants in compliance with its terms. Without a permit, discharges of pollutants are prohibited under Section 301 of the Clean Water Act. Moreover, because the thirty day period between the date of issuance and the date of effectiveness is provided to afford administrative appeal, a procedure which is not available for general permits, no purpose is served by delaying the effective date.

Dated: November 22, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-32570 Filed 12-7-83; 8:45 am]
BILLING CODE 6560-50-M

[WH-FRL-2484-2]

Issuance of Final General NPDES Permit for Offshore Oil and Gas Facilities Off Southern California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of final general NPDES permit: Reissuance.

SUMMARY: The Regional Administrator of Region 9 is today issuing a final general NPDES permit for facilities in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. This permit allows permitted facilities operating in Federal waters off Southern California to maintain compliance with effluent limitations, standards, prohibitions and other conditions established in the general NPDES permit issued on February 18, 1982 (47 FR 7312) for an additional 6 months. The area covered by the general permit includes lease parcels from Federal Lease Sales Nos. 35, 48, 53 that were included in the original general permit issued on February 18, 1982 and in addition, parcels from Lease Sale #68 and Reoffering Sale #2 added as a result of a final modification of the general permit which EPA is also issuing today. For further information concerning that modification see the notices of final modification published elsewhere in the Notices section of this issue. Both actions, modification of the general permit and reissuance of the general permit, were the subjects of a public hearing on August 11, 1983 in Santa Barbara, CA. EPA's response to comments submitted concerning these permit actions are found in Appendix A of this document. The final general permit issued today contains basically the same effluent limitations and operating conditions as the general NPDES permit issued February 18, 1982. One additional monitoring requirement has been added. Part I.A.1(h) is added to the permit as follows: "The permittee, when submitting the annual monitoring report pursuant to Part I.A.4 of this permit, shall include an analysis (in ppm) for the following elements as contaminants in barite for each source of supply of barite utilized by the permittee in formulating drilling mud: arsenic, cadmium, chromium, copper, lead, mercury, nickel, vanadium, and zinc." This monitoring requirement is included to obtain additional data regarding barite contamination with metals, which was a major concern of commenters at the public hearing. Also, additional notification requirements for commencement of operations have been added to Part I.A.6 of the permit for operations on parcels for which a biological survey is required by Minerals Management Service (MMS) lease stipulation. This survey is required for areas having or believed to have special or unusual biological populations or habitats. Part I.A.6 of the reissued permit requires in addition to the existing requirements, that the biological survey report and the plan of exploration/development be provided to EPA prior to initiation of discharges. Initiation of discharge under the general permit may not begin until EPA has reviewed the survey report and the proposed operations and determined that the general permit is appropriate for the proposed discharges and notified the permittee in writing of this determination. These additional notification requirements were included in the reissued permit to provide additional protection for areas of special biological significance.

EPA has made two changes in the permit regarding CZMA requirements. These changes apply only to facilities commencing operation after the date of this notice. The California Coastal Commission has determined that NPDES activities within 1000 meters of the territorial seas may affect the State's coastal zone. As such, this area is distinct from the rest of the general permit area and EPA is today deleting this area from coverage under the general permit for new operations. Individual permits will be required for all new operations within this area. Condition III.A of the general permit authorizes EPA to require an individual permit for any operation where new information demonstrates that the terms and conditions of the general permit are not appropriate. This condition is intended to include any operation for which the California Coastal Commission has denied consistency concurrence on the facility's exploration or development plan. Accordingly, EPA has changed Condition II.B.8 of the permit to require a consistency determination for any new operation within the revised general permit area and submittal of Coastal Commission concurrence with the determination to EPA prior to operation under the general permit. Condition II.B.8 is modified to read as follows: "State Coastal Zone Management Plan Consistency. Discharge from drilling vessels, production platforms or other facilities engaged in exploratory drilling or production of oil and gas is prohibited until the plan of exploration or development, for each affected parcel, is determined to be consistent with the Coastal Zone Management Plan by the Coastal Commission of the State of California and the consistency concurrence of the Coastal Commission is submitted to EPA. This provision applies only to facilities commencing operation after the date of this notice."

This final permit does not authorize discharges into the territorial seas of the State of California or discharges into any body of water landward of the inner boundary of the territorial seas or any wetlands adjacent to such waters (facilities in the "Onshore" and "Coastal" subcategories defined in 40 CFR Part 435), consistent with the current general permit. Also, the permit does not authorize discharges from facilities defined in 40 CFR 122.2 as "new sources".

This final general permit has an effective date of January 1, 1984 and an expiration date of June 30, 1984.

Copies of the fact sheet and final permit may be obtained from EPA at the address below.

ADDRESS: Notification and requests should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California, 94105. [Telephone No. (415) 454–8330.]

FOR FURTHER INFORMATION AND COPIES OF FINAL PERMIT CONTACT: Eugene Bromley, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California, 94105. [Telephone No. (415) 974–8330.]

SUPPLEMENTARY INFORMATION:

I. Background

The general NPDES permit authorizes discharges from offshore oil and gas facilities operating in Federal waters offshore Southern California on active lease parcels from Lease Sales Nos. 35, 48, and 53, and the 1966 and 1968 Federal lease sales. Twenty-nine additional tracts were leased by the Minerals Management Service (MMS) in the recent Lease Sale No. 68. These tracts are (by OCS parcel number): P–0456, P–0457, P–0459, P–0460, P–0461, P–0462, P–0463, P–0464, P–0465, P–0467, P–0468, P–0469, P–0472, P–0473, P–0474, P–0475, P–0476, P–0479, P–0480, P–0481, P–0482, P–0483, P–0484, P–0485, P–0486, P–0487, P–0488, P–0489, P–0490. Ten additional tracts were also leased in Reoffering Sale No. 2, Southern California Area. The numbers of these parcels are (by OCS lease parcel number): P–0491 through P–0500 inclusive. EPA proposed to modify the geographic area covered by the general permit to include authorization to discharge on the tracts awarded in these two lease sales on January 3, 1983 (48 FR 76), and EPA is issuing the final modification today published elsewhere in the Notices section of this issue.

The fact sheet accompanying the issuance of the general permit (February 18, 1982, 47 FR 7312) set forth the principal facts and the significant factual, legal, and policy questions considered in the development of the terms and conditions of the permit. As discussed below, EPA believes that these terms and conditions are also appropriate for discharges occuring during the 6 month period of January 1, 1984 through June 30, 1984.

NPDES permits may be issued for 5 year terms. The Regional Administrator decided, however, for several reasons, that the original general permit should be issued with an expiration date of December 31, 1983. First, Section 301(b)(2) of the Act requires that all permits effective or issued after July 1, 1984 contain effluent limitations representing best available technology economically achievable (BAT) for all categories and classes of point sources. The December 31, 1983 date was included in the permit to allow a reasonable time for the permittees to achieve BAT limitations no later than July 1, 1984. Second, the Regional Administrator concluded that the discharges from facilities operating within the scope of the permits would not cause unreasonable degradation of the marine environment. This conclusion was based on a consideration of the Ocean Discharge Criteria guidelines (45 FR 65942) and an extensive analysis of the available information on the fate and effects of drilling mud discharges. At the time the permits were issued, the available scientific information did not warrant the same conclusions for operations over a 5 year period, the normal term of an NPDES permit.

The Agency is developing a more comprehensive evaluation of the effects of oil and gas discharges on the marine environment pursuant to the Ocean Discharge Criteria, including information on impacts associated with multiple wells at fixed sites, impacts on benthic communities, and bioaccumulation studies. However, the Agency has determined that an additional 6 months under the proposed reissuance does not change the original finding of no unreasonable degradation under 403(c).

The Agency is now developing BAT effluent guidelines for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. These regulations will specify technology-based limitations to be imposed in NPDES permits. At the time the current permit was issued the Agency expected a BAT determination to be completed by December 31, 1983. It is now apparent that the BAT determination will not be completed until later. In order to ensure a permit consistent with the BAT guidelines determinations, the agency is reissuing the current permit for 6 months. The development of these guidelines combined with the additional information on the effects of the discharges will enable the Agency to propose and issue 5 year term general permits on or before June 30, 1984.

II. Conditions in the General NPDES Permit

A brief summary of the terms and conditions of the final general NPDES permit is presented below. A more thorough explanation can be found in

the original publication of the current general permit at 47 FR 7312.

A. Notification

Permittees are required to notify the Agency of the commencement and termination of operations in the general permit area. Mobile drilling rigs are also required to notify the Agency of relocation within the permit area. In addition, for operations on tracts for which a biological survey is required by (MMS) lease stipulation, permittees are required to provide EPA with the biological survey report and exploration/development plans prior to initiation of discharges. This will allow EPA to evaluate the possible need for an individual NPDES permit for tracts which may contain special biological populations.

B. Technology Based Effluent Limitations

The draft permit contains effluent limitations based on the technological capacity of the dischargers to control the discharge of their pollutants or "Best Practicable Control Technology Currently Available" (Section 301(b)(1)(A) of the Clean Water Act and 40 CFR Part 435).

C. Other Discharge Limitations

The final permit contains a list of approved drilling muds components. Additional mud components and additives have been approved based on information submitted by permittees. Information concerning these constituents can be obtained at the address given above. Variation from the approved list requires the owner or operator to conduct bioassay tests and submit the analyses to the Regional Administrator. The permit also prohibits the discharge of drilling mud in a volume and/or concentration which, after allowance for initial dilution, would result in exceedences of the limiting permissible concentration (LPC) for a particular drilling mud (40 CFR 227.27(a)). The discharge of oil-based drilling muds is prohibited.

The permit includes effluent limitations for heavy metals in produced waters based on the daily maximum concentration in the California Ocean Plan.

The facility owner or operator is required to minimize the discharge of dispersants, surfactants, and detergents. The discharge of halogenated phenols is prohibited.

D. Monitoring and Enforcement

The permit requires dischargers to monitor monthly the concentrations of oil and grease in produced water discharges and chlorine in sanitary wastes. Monthly monitoring or estimates of produced water flow rate are required, as well as annual sampling for heavy metals. Monthly volume estimates are required for drilling muds, drill cuttings, deck drainage, produced sand, and well treatment fluids. A chemical inventory of materials actually added down the well must also be maintained. Discharge Monitoring Reports must be submitted annually.

III. Other Legal Requirements

(1) *Consistency with California Coastal Zone Management Program.* The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally-licensed activity directly affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. The original general permit did not authorize discharges into the territorial seas of the State of California, nor into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters. The CZMA requires review of exploration and development plans for consistency with the California Coastal Zone Management Plan and, therefore, the permit contains a provision (Condition II.B.8) requiring CZMP consistency review prior to authorization to discharge.

This provision requires that operations under the general permit may not be conducted until the plan of exploration or development has been certified to the Coastal Commission of the State of California as consistent with CZMP and has been concurred upon by that Commission. The consistency concurrence must be submitted to EPA prior to operation under the general permit.

As discussed earlier in this notice, CZMA requirements of the reissued permit are different in two respects from the original general permit issued in February, 1982. The California Coastal Commission has determined that NPDES activities within 1,000 m of the territorial seas may affect the State's coastal zone. As such, this area is distinct from the rest of the general permit area and EPA is deleting this area from coverage under the general permit for new operators. Individual permits are required for all new operations within this area. Also, EPA is changing Condition II.B.8 of the permit to require a consistency determination on a facility's exploration or development plan for any new operation within the revised general permit area and submittal of Coastal Commission concurrence with the determination to EPA prior to operation under the general permit. The new requirements are applicable only to facilities commencing operations after the date of this notice.

(2) Endangered Species Consultations. The Endangered Species Act requires that each Federal Agency ensure that any of their actions, such as permit issuance, do not jeopardize the continued existance of any endangered or threatened species or result in the destruction or adverse modification of their habitats. The Minerals Management Service (MMS) of the Department of Interior has undertaken endangered species reviews including full consultation with the Department of Commerce, the National Marine Fisheries Service and the Department of the Interior's Fish and Wildlife Service, with respect to all oil and gas leasing in the general permit area. Prior to issuance of the general permit EPA concluded that the discharges authorized by the general permit would neither jeopardize the continued existence of any endangered or threatened species nor adversely affect its critical habitat. Both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service concurred with this conclusion. The reissued permit extends the authorization to discharge for 6 additional months in the same locations where discharges are currently authorized and includes new areas described in the permit modification discussed above. Since the new tracts are in the same vicinity as the existing tracts, EPA concluded that discharges on the added tracts would neither jeopardize the continued existence of any endangered species nor adversely affect its critical habitat.

Therefore, EPA believes that the previous conclusion regarding effects on endangered species is applicable to the final reissued general permit.

(3) Economic Impact (Executive Order 12291). The Office of Management and Budget (OMB) has exempted this action from the review requirement of Executive Order 12291 pursuant to Section 8(b) of that order.

(4) Paperwork Reduction Act. EPA has reviewed the requirements imposed on regulated facilities by the final permit reissuance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements in the final permit have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. The final general

permit explains how its information collection requirements respond to any OMB or public comments.

(5) Regulatory Flexibility Act. After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that the final permit reissuance will not have a significant impact on a substantial number of small entities. Moreover, they reduce a significant administrative burden on regulated sources.

Dated: November 22, 1983.

John Wise,

Acting Regional Administrator.

Appendix A—Public Comments

A public hearing was held on August 11, 1983, in Santa Barbara, California to receive public comment regarding the proposed modification and reissuance of the general NPDES permit covering discharges associated with the development of oil and gas resources on the Pacific Outer Continential Shelf, adjacent to Southern California. Numerous comments were submitted to EPA at the public hearing and within the public comment period which closed on August 25, 1983. The following parties responded with comments:

Fred Eissler, for Scenic Shoreline Preservation Conference
Jeffrey Young, for Pacific Seafood Industries, Inc.
California Dept. of Fish and Game
Ralph T. Hicks, for the Environmental Defense Center
Michael Fischer, for California Coastal Commission
Marin Conservation League
Ruth Corwin, for the Oceanic Society
League for Coastal Protection
Get Oil Out, Inc.
County of Ventura
No Oil, Inc.
American Cetacean Society
Gulf Oil Exploration and Production Co.
Chevron, U.S.A., Inc.
California Offshore Operators Ad Hoc Committee
SOS: Save Our Shore
Exxon Company, U.S.A.
Shell Oil Company
Conoco, Inc.
Marathon Oil Company
Texaco, Inc.
B. R. Hall, for the American Petroleum Institute and the following individuals:
Joseph Nalven
Philip Beguhl
Dianne Kopec
Scott D. Smith
Beatrice Sweeney
Andrew J. McMullen
Edmund Guerrero
John Mohr
Steve Rowe
David Santis
Stuart Baker
K. C. Burger
Valerie Weiss
Clay Powell
Blake Gentry
Elizabeth M. Engriser
Peter Green
Jeff Enorly
D. F. Rick Hoffman
Frederick T. Weiss
Cedric Garland
Irwin Haydock

The following parties testified at the August 11 public hearing:

For the California Offshore Operators Ad Hoc Committee

Douglas E. Uchikura
John Herring
Robert Ayers, Jr.
Theodore C. Sauer, Jr.
Ronald Kolpack
Robert P. Meek
Frank J. Hester
Curt Rose
Donald F. Keene
Jerry M. Neff
William Bresnick

Scott Cox, Coast Watch
Ruth Corwin, San Francisco Oceanic Society
William A. Master, Santa Barbara County
Martha Weiss, California Coastal Commission
Scott Cox, Get Oil Out
Fred Eissler, Scenic Shoreline Preservation Conference, Inc.
Alan Hur, Commercial Fishing
Win Swint, California Abalone Assoc.
Frank Peterson, Oil Waste Watch
Michael David Cox, Environmental Defense Center
Naomi Schwartz, for Senator Gary Hart
Carla D. Frisk, for Assemblyman Jack O'Connell
Ralph Hicks, Sierra Club
Rachel T. Saunders, Friends of the Sea Otter and the following individuals:
Cedric Garland
John L. Mohr

The following parties submitted comments which were received after the public comment period ended on August 25, 1983.

Minerals Management Service
La Mer Bleu Production
City of Santa Barbara
Whale Center of Oakland, CA
Cities Service Oil and Gas Corporation

Comments presented during the public comment period and at the public hearing were reviewed by EPA and considered in the formulation of the final decision regarding the proposed permit modification and reissuance. Our response to these comments is as follows:

Comment: Several commenters pointed out that processes are available for solidifying drilling mud, thereby reducing its potential for environmental degradation when discharged. Commenters suggested that such technology should be required for offshore oil operations rather than allow the disposal of the raw drilling fluids.

Response: EPA has investigated these processes and their possible application for offshore oil and gas operations. The processes have not been demonstrated in an actual offshore operation and still appear to be in developmental stages for offshore applications. Space requirements are considerable although the process could conceivably be situated on a barge or workboat adjacent to an offshore operation. However, in light of the developmental nature of these processes for offshore facilities, it would not be appropriate to require the technology at this time. The EPA Effluent Guidelines Division is considering this treatment option as a candidate technology for future effluent guidelines for this industry.

Comment: A safety factor greater than .01 should be used to determine limiting permissible concentrations from 96 hr drilling mud bioassays.

Response: The safety factor of 1% was obtained from the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), regulations promulgated by EPA pursuant to Section 403(c) of the Clean Water Act. The safety factor is intended to provide protection for chronic exposure and critical life stages. An alternate safety factor may be used if justified by scientific evidence. The use of .01 as the safety factor for drilling mud discharges was analyzed by Dr. Gary Petrazzuolo in *Environmental Assessment: Drilling Fluids and Cuttings Released onto the OCS.* The analysis showed that this safety factor is likely to be overly conservative rather than insufficiently stringent.

Comment: Concern was expressed over the effect of mud discharges on the California spiny lobster.

Response: Dr. Gary Petrazzuolo has analyzed large numbers of bioassay results for marine organisms and has developed an approximate scale of relative sensitivity of marine organisms and classes of organisms to drilling mud. It should be remembered that variation in sensitivity exists within these groupings. However, the data show that on the average, lobsters are not unusually sensitive to drilling mud. The permit limits pertaining to drilling mud toxicity should be adequate to protect the California lobsters. The research referred to by the commenters showed that as with many other marine organisms lobsters are particularly sensitive to the presence of diesel oil in drilling mud. Diesel oil is not an approved additive for muds discharged into Federal waters offshore Southern California. Those muds which are

allowed to be discharged should not present an excessive risk to the lobster.

Comment: EPA should require substitutes for toxic components in drilling mud, and the least toxic additives where choices are available.

Response: A wide variety of basic mud constituents and specialty additives are needed for different drilling circumstances. The general permit limits the toxicity of drilling muds as a whole. EPA believes these toxicity limits place adequate constraints on additive selection and the amount of the additives used.

Comment: Many commenters objected to the discharge of drilling muds. Concern was expressed regarding acute toxicity of the muds, chronic toxicity, and the presence of substances such as heavy metals and asbestos in the muds.

Responses: EPA uses the "generic mud" approach for regulating the discharge of drilling muds. Eight basic formulations of drilling mud shave been tested by EPA and found to exhibit low toxicity. These "generic muds" may be discharged along with similar muds which may reasonably be expected to exhibit low toxicity also. Condition I.A.1(e) of the general permit requires for nongeneric muds or muds with specialty additives that there be no exceedence of a "limiting permissible concentration" or LPC after initial dilution. The LPC is defined on Condition III.C. 17 of the permit. On the basis of mud dispersion studies, EPA, Region 9 has concluded that 10,000 ppm is the minimum 96 hr LC_{50} (suspended particulate phase) required for compliance with Condition I.A.1(e). Region 9's procedure for regulating mud discharges was derived from the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), regulations promulgated by EPA pursuant to Section 403(c) of the Clean Water Act. As such, EPA believes that the requirements of Section 403(c) are satisfied.

After initial dilution mud discharges are required to be diluted below 1% of the concentration shown to be acutely toxic to appropriate sensitive marine organisms. The application factor of 1% is believed to provide adequate protection for chronic toxicity and critical life stages. Also mud impact studies have shown that the impact of the mud discharges are temporary and restricted to the immediate vicinity of the discharge site.

Commenters were concerned about the presence of heavy metals and asbestos in mud. Asbestos is not permitted for use in drilling muds discharged offshore California.

However, there is a potential for heavy metals contamination of barite used in drilling muds. The permit is being modified to require all operators, when submitting annual monitoring reports pursuant to Condition I.C. 4 of the permit, to submit an analysis for the presence and concentration of the following elements as possible contaminations in the barite used in formulating drilling mud: Arsenic, cadmium, chromium, copper, lead, mercury, nickel, vanadium, and zinc. One analysis shall be provided for each source of supply of barite used by the operator.

Comment: A limitation more specific than "no free oil" is needed for discharges such as deck drainage.

Response: This limitation is derived from effluent guidelines for the Oil and Gas Extraction Point Source Category (40 CFR Part 435). "No free oil" means that the discharge not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shoreline or cause a sludge or emlsion to be deposited beneath the surface of the water or upon adjoining shorelines. EPA recognizes the desirability of a more specific limitation and has developed a "laboratory sheen test" to more accurately measure the presence of "free oil." However, EPA believes that it is appropriate to retain the present limitation until the procedure is formally adopted by EPA as an effluent guideline.

This new requirement is expected to be proposed as part of a package of new effluent guidelines for this industry in January, 1984.

Comment: Concern was expressed regarding toxic substances in produced water discharges.

Responses: The general permit contains limits on concentrations of metals in producted water discharges. The limits are to be achieved after initial dilution in a mixing zone defined in the permit. The limits are the same as those in California Ocean Plan.

These allowable concentrations were determined through a thorough study of the effects of these elements on marine organisms. EPS believes that these limits should provide adequate protection for the marine environment. The EPA Effluent Guidelines Division has recently completed a survey in which produced water was sampled for toxic organics in addition to metals.

Produced water in the Gulf of Mexico, offshore California and Alaska were sampled and small concentrations of some toxic organics were identified, particularly in Alaska. The Effluent Guidelines Division is still in the process of reviewing the data and treatment options for controlling the discharge of toxic organics in produced waters. EPA, Region 9 believes that it is appropriate to wait until this analysis is complete before proposing any possible modifications to the general permit.

Comment: Concern was expressed that discharges might threaten the sea otter and that permit limits were inadequate to ensure the protection of the sea otter.

Responses: The southern sea otter inhabits nearshore waters from Santa Cruz in the North to Pismo Beach (approximately) in the South. EPA is proposing to add 10 new tracts in the Santa Maria Basin as authorized discharge sites for offshore oil operations. The new tracts are located to the west and south, seaward of tracts on which discharges are currently authorized in the Santa Maria Basin, and as such are farther from the sea otter territory than the existing tracts. The general permit contains limitations of the discharge of toxic materials on all the tracts on which discharges are authorized. The impact of these discharges is restricted to the immediate vicinity of the drilling operation and discharges on the new tracts should not present an undue risk to the sea otter.

Comment: The California Coastal Commission (CCC) staff requested a special condition requiring that the general permit not apply in any case for which the CCC determines that consistency review is required. The general permit currently requires that dischargers operating within 1000 m of State waters obtain consistency concurrence for their operation prior to operating under the general permit.

Responses: EPA has made two changes in the permit regarding CZMA requirements. These changes apply only to facilities commencing operation after the date of this notice. The California Coastal Commission has determined that NPDES activities within 1,000 m of the territorial seas may affect the State's coastal zone. As such, this area is distinct from the rest of the general permit area and EPA is today deleting this area from coverage under the general permit for new operations. Individual permis will be required for all new operations within this area. Condition III.A of the general permit authorizes EPA to require a separate permit for any operation where new information demonstrates that the terms and conditions of the general permit are not appropriate. This condition is intended to include any operation which the California Coastal Commission has concluded would affect State water uses. Accordingly, EPA has changed Condition II.B.8 of the permit to require a consistency determination for any new operation within the revised general permit area and submittal of Coastal

Commission concurrence with the determination to EPA prior to operation under the general permit. Condition II.B.8 is modified to read as follows: "State Coastal Zone Management Plan Consistency. Discharge from drilling vessels, production platforms or other facilities engaged in exploratory drilling or production of oil and gas is prohibited until the plan of exploration or development, for each affected parcel, is determined to be consistent with the Coastal Zone Management Plan by the Coastal Commission of the State of California and the consistency concurrence of the Coastal Commission is submitted to EPA. This provision applies only to facilities commencing operation after the date of this notice."

Comment: The permit contains inadequate mechanisms to ensure compliance with permit limits.

Response: NPDES permits (including this general permit) require the permittee to monitor wastewater prior to discharge, retain records for at least 3 years, and report monitoring results to EPA. The requirement that a permittee conduct self-monitoring is authorized in Section 402 of the Clean Water Act, and is a standard requirement for all NPDES permits issued by EPA. EPA has found self-monitoring to be an effective and efficient tool for determining compliance with requirements and ensuring proper operation of pollution control facilities.

EPA retains the authority to inspect permitted facilities and records and to take discharge samples. An inspection was recently conducted by EPA in which all offshore operations in Federal waters offshore Southern California were visited. Samples of drilling mud and produced water were taken at each facility in operation at the time of the inspection. These samples are currently being analyzed by EPA to determine compliance with permit limits.

EPA's enforcement and monitoring efforts are supplemented by the activities of other Federal and State agencies. The Ventura office of the Minerals Management Service (MMS, formerly the U.S. Geological Survey) maintains a close surveillance over drilling activities in the Santa Barbara Channel and elsewhere in offshore waters of Southern California.

Comment: The organisms which EPA has utilized in bioassay tests of drilling mud are insufficiently sensitive to assess the impacts of the mud discharges in the marine environment.

Response: Lethal and sublethal toxicity tests for drilling muds have been performed with a wide variety of marine organisms. Petrazzuolo in *Environmental Assessment: Drilling Fluids and Cuttings Released on the OCS* indicates that testing has occurred for 82 species from 67 genera. Of course, some species are more sensitive than others, and sensitivity varies with different muds and additives. The tests may not have included all of the most sensitive marine organisms.

However, EPA believes that the large number of tests and the variety of species tested provides an adequate representation of overall toxicity of muds in the marine environment. In addition, EPA is currently funding a bioassay and bioaccumulation study using the ridgeback prawn, a commercially important local species. Results of the study will be available in 2–3 months.

Comment: Several commenters expressed concern that the general permit might not provide adequate protection for areas of special biological significance such as the Channel Islands Marine Sanctuary or Point Conception.

Response: The general permit applies to specified Federal waters offshore Southern California where a uniform set of effluent limitations, monitoring requirements and other conditions are believed to be appropriate. Additional limitations may be required for areas of special biological significance. Part III. A of the general permit provides that an individual permit be issued with special effluent limitations for cases when the limitations in the general permit are not appropriate. This mechanism will provide adequate protection for areas of special biological significance.

However, EPA believes that additional notification requirements are appropriate for operations in such areas to ensure adequate review of the proposed operation prior to initiation of discharges. EPA is modifying the notification requirements (Part I.A.6) in the reissued permit for parcels for which a biological survey is required by MMS lease stipulation. This biological survey is required for areas having or believed to have special or unusual biological populations or habitats, and should include most areas of concern of the commenters. Part I.A.6 of the reissued permit is being modified to require that the biological survey report and the plan or exploration/development be provided to EPA prior to commencement of operations. Initiation of discharge under the general permit may not begin until EPA has reviewed the survey report and the proposed operations and determined that the general permit is applicable to the proposed discharges and notified the permittee in writing of this determination.

The National Oceanic and Atmospheric Adminstration (NOAA) has promulgated regulations for activities (including hydrocarbon) in the Channel Islands Marine Sanctuary (15 CFR Parts 935 and 936). These regulations prohibit discharges on lease areas leased subsequent to the effective date of the sanctuary regulations.

Other lease parcels are not affected. However, lease parcels leased prior to sanctuary designation are all on the outer fringes of the designated sanctuary area and EPA believes that permit limitations will adequately protect the sanctuary resources.

Comment: The cumulative impact of discharges from the large number of wells expected to be drilled over the next several years needs to be more compeletely investigated.

Response: The permit which is being reissued expires on June 30, 1984. Only a limited amount of drilling can take place during the life of the permit within the existing permit area or the additional tracts on which the Agency is authorizing discharges. EPA believes that the cumlulative impact from this limited amount of drilling, subject to permit effluent limitations, will not cause unreasonable degradation of the marine environment.

Comment: The geography and biology in the general permit area are variable and as such a general permit is not appropriate. Individual permits should be issued which would allow a site-by-site analysis.

Response: This issue was raised when the general permit was originally issued in 1982. EPA concluded that a general permit would be appropriate for the waters specified by the permit. This conclusion was based on the fact that previously issued individual permits for the offshore Southern California area contained mostly the same effluent limitations, monitoring requirements and other conditions. Also, EPA has made conservative assumptions in deriving effluent limitations and these limits should be adequate throughout the general permit area. Areas of special biological significance such as Tanner Banks were excluded from coverage under the general permit. The new parcels from Lease Sale #68 ανδ Ρεοφφερινγ Σαλε #2 are in the same vicinity as the tracts on which discharges are currently authorized by the general permit. EPA believes that the effluent limitations, monitoring requirements and other conditions in the existing general permit are appropriate for the new parcels. As such, EPA believes it is appropriate to include the new parcels in the existing permit. Should new information indicate that additional effluent limitations are required for any of the new tracts, an

individual permit would be required pursuant to Condition III.A of the general permit.

Comment: New species have been discovered in the biological surveys conducted in the Point Conception area. Commenters felt that the permit limits were inadequate to ensure the protection of these resources. The biological surveys are required by the Minerals Management Service as a lease stipulation for some lease parcels.

Response: EPA has reviewed the reports of the biological surveys conducted in the Point Conception area. The reports themselves concluded that discharges from the offshore oil and gas operations would probably not harm the biological communities. The new species seemed to be widespread throughout the survey area. Impacts from discharges from oil and gas operations are restricted to the vicinity of the drillsite. However, should biological resources be discovered requiring special protection, individual permits would be issued with effluent limitations tailored to the needs of the discharge site.

Comment: The EPA, Region II generic muds were bioassay tested with specific concentrations of mud constitutents in them. For example, maximum concentration of barite was 176 lbs/bbl. EPA should not allow a range of allowable mud concentrations such as barite up to 450 lbs/bbl.

Response: EPA has reviewed bioassay data for muds containing the upper limits for the mud components allowed to be discharged. For example, barite is allowed to be discharged in muds up to 450 lbs/bbl. This determination was based on a review of bioassay data for muds containing 450 lbs/bbl barite. The review showed that the discharge would comply with permit requirements.

Comment: The expiration date for the permit should not be June 30, 1984, but should allow for possible action by Congress within the life of the permit to extend the deadline for BAT effluent limits beyond June 30, 1984.

Response: EPA cannot speculate on future actions by Congress regarding possible changes in the timetable for attainment of BAT effluent limitations. Permits issued today must reflect the requirements of the Clean Water Act as it currently exists.

Comment: concern was expressed by a commenter regarding possible adverse effects on U.S.-Mexico relations resulting from a blow-out.

Response: The general permit does not authorize blowouts. EPA can only respond to comments on effects of discharges that are permitted by the general permit. The area in which operations may be conducted under the general permit is considerable distance to the north of the waters of Mexico.

Comment: Examples were cited by commercial fishermen of damage to fishing gear resulting from mud discharges.

Response: The Outer-Continental Shelf (OCS) Lands Act amendments of 1978 established a Fishermen's Contingency Fund to compensate commercial fishermen for losses resulting from offshore oil and gas operations. The program is administered by National Marine Fisheries Service (NMFS). Funds for the program come from the oil and gas industry. EPA suggests that the NMFS be contacted by commercial fishermen who believe they have suffered economic losses as result of offshore oil and gas operations. For the Southern California area the appropriate NMFS office is located in Terminal Island, CA (Telephone No. (213) 548–2478).

[Permit No. CA0110516]

General Permit Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.; the "Act"), the following discharges are authorized:

Drill Cuttings and Drilling Muds (discharge 001),
Produced Water (discharge 002),
Produced Sand (discharge 003),
Well Completion and Treatment Fluids (discharge 004),
Deck Drainage (discharge 005),
Sanitary Wastes (discharge 006),
Domestic Wastes (discharge 007),
Desalinization Unit Discharge (discharge 008),
Cooling Water (discharge 009),
Bilge Water (discharge 010),
Ballast Water (discharge 011),
Excess Cement Slurry (discharge 012),
BOP Control Fluid (discharge 013), and
Fire Control System Test Water (discharge 014),

from offshore oil and gas facilities (defined in 40 CFR Part 435, Subpart A) to receiving waters named the Pacific Ocean, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II and III thereof.

Offshore permittees who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized to discharge to the specified receiving waters unless an individual permit has been issued to the facility by EPA, Region 9.

The authorized discharge sites are (by OCS lease parcel number):

in waters west and northwest of Point Arguello,
P-0393 P-0394 P-0395 P-0396 P-0397
P-0400 P-0401 P-0402 P-0403 P-0404
P-0405 P-0406 P-0407 P-0408 P-0409
P-0410 P-0411 P-0412 P-0413 P-0414
P-0415 P-0416 P-0418 P-0419 P-0420
P-0421 P-0422 P-0424 P-0425 P-0426
P-0427 P-0429 P-0430 P-0431 P-0432
P-0433 P-0434 P-0435 P-0436 P-0437
P-0438 P-0439 P-0440 P-0441 P-0443
P-0444 P-0445 P-0446 P-0447 P-0448
P-0449 P-0450 P-0451 P-0452 P-0453
P-0491 P-0492 P-0493 P-0494 P-0495
P-0496 P-0497 P-0498 P-0499 P-0500;
in waters south and west of Pt. Conception,
P-0315 P-1316 P-0317 P-0318 P-0319
P-0320 P-0321 P-0322 P-0323 P-0324
P-0325 P-0327 P-0328 P-0330 P-0331
P-0332 P-0333 P-0338 P-0456 P-0457;
in the Santa Barbara Channel from Pt. Conception to Goleta Point,
P-0180 P-0181 P-0182 P-0183 P-0184
P-0185 P-0186 P-0187 P-0188 P-0189
P-0190 P-0191 P-0192 P-0193 P-0194
P-0195 P-0196 P-0197 P-0326 P-0329
P-0334 P-0335 P-0336 P-0339 P-0340
P-0341 P-0342 P-0343 P-0344 P-0345
P-0348 P-0349 P-0350 P-0351 P-0352
P-0353 P-0354 P-0355 P-0356 P-0357
P-0358 P-0359 P-0360 P-0459 P-0460
P-0461 P-0462 P-0463 P-0464 P-0465
P-0467 P-0469 P-0475;
in the Santa Barbara Channel from Santa Barbara to Ventura,
P-0166 P-0202 P-0203 P-0204 P-0205
P-0208 P-0209 P-0210 P-0215 P-0216
P-0217 P-0231 P-0232 P-0233 P-0234
P-0238 P-0240 P-0241 P-0337 P-0346
P-0347 P-0361 P-0468 P-0472 P-0473
P-0474 P-0478 P-0479;
in waters south of Santa Rosa and Santa Cruz Islands,
P-0362 P-0363 P-0364 P-0480 P-0481
P-0482 P-0483 P-0484 P-0485 P-0486
P-0487;
in the San Pedro Channel between San Pedro and Laguna,
P-0295 P-0296 P-0300 P-0301 P-0306
P-0366 P-0488;
in waters west of San Clemente Island in the Tanner Bank Area,
P-0367 P-0369 P-0489 P-0490.

This general permit does not apply to discharges within 1000 meters of the territorial seas of the State of California for facilities commencing to discharges after the effective date of this permit. Individual permit must be obtained for discharge within this area.

This permit does not authorize discharges from "new sources" as defined in 40 CFR 122.3.

The permit shall become effective on _____.

This permit and the authorization to discharge shall expire at midnight June 30, 1984.

Signed this 22d day of November, 1983
John Wise,
Acting Regional Administrator.

Part I

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through June 30, 1984, the permittee is authorized to discharge from outfall(s) serial number 001 (drill cuttings and drilling muds).

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations				Monitoring requirements	
	Kilograms per day (pounds per day)		Other units (specify)		Measurement frequency	Sample type
	Daily average	Daily maximum	Daily average	Daily maximum		
Total volume (cubic meters)[1]					Once per month	Estimate.

[1] The total volume of drill cuttings and drilling muds discharged for the prior month at each site shall each be monitored by an estimate sample type.

b. There shall be no discharge of free oil as a result of the discharge of drill cuttings and/or drilling muds. The permittee shall make visual observations for the presence of free oil on the surface of the receiving water in the vicinity of the discharge on each day of discharge.

c. There shall be no visible floating solids in the receiving waters as a result of these discharges.

d. The discharge of oil-base drilling muds is prohibited.

e. There shall be no discharge of toxic materials in a concentration and/or volume which after allowance for initial mixing, exceeds the limiting permissible concentration defined in Condition III.C.17. The discharge of generic drilling muds, as defined in Part III.C.18 of this permit, shall constitute compliance with this provision.

f. Drilling Muds Inventory. The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling mud additives used to meet specific drilling requirements.

g. Additional Monitoring Requirements: Bioassay of Spent Drilling Muds

Within six (6) months of the initiation of drilling mud discharges, the permittee shall demonstrate compliance with condition I.A.I.e. by conducting and reporting the results of a drilling mud bioassay performed for each type of drilling mud discharged. A sample of spent drilling mud, immediately prior to its intended discharge, shall be collected for analysis. The bioassay shall be conducted in accordance with procedures developed by the Mid-Atlantic Joint Industry Bioassay Program, or other methods approved by the Regional Administrator, Region 9. The following shall be submitted to the Regional Administrator:

(a) The date the sample was collected;

(b) The average rate of discharge and total volume of spent drilling mud discharged on the date of the sample;

(c) The water depth into which the drilling muds were discharged;

(d) The results of bioassays, including the survival percentages of all dilutions tested;

(e) A list of all components, including the weights, in pounds per barrel, used to compose the drilling muds which are discharged. If commercial names are listed, their chemical constituents shall also be provided.

The bioassay requirement shall be deemed satisfied where the permittee discharges a drilling mud for which bioassay test data, obtained through procedures defined above, has previously been submitted to the Regional Administrator without regard to whether the permittee was originally responsible for obtaining the test data.

h. The permittee, when submitting the annual monitoring report pursuant to Part I.A.4 of this permit, shall include an analysis (in ppm) for the following elements as contaminants in barite for each source of supply of barite utilized by the permittee in formulating drilling mud: arsenic, cadmium, chromium, copper, lead, mercury, nickel, vanadium, and zinc.

2. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through June 30, 1984, the permittee is authorized to discharge from outfall(s) serial number(s) 002 (produced water).

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations				Monitoring requirements	
	Kg/day (lbs/day)		Other units (specify)		Measurement frequency	Sample type
	Daily average	Daily maximum	Daily average	Daily maximum		
Flow-m³/day (MGD)					Once per month	Composite.
Oil and grease				72.0 mg/l[1]	do	Do.
Arsenic				.032 mg/l[1]	Once per year	Do.
Cadmium				.012 mg/l[1]	do	Do.
Total chromium				.008 mg/l[1]	do	Do.
Copper				.020 mg/l[1]	do	Do.
Cyanides				.020 mg/l[1]	do	Do.
Lead				.032 mg/l[1]	do	Do.
Mercury				.00056 mg/l[1]	do	Do.
Nickel				.060 mg/l[1]	do	Do.
Silver				.0018 mg/l[1]	do	Do.
Zinc				.060 mg/l[1]	do	Do.
Phenols				.120 mg/l[1]	do	Do.

[1] This limit is applicable after initial dilution within a mixing zone defined in Condition III. C.16. Compliance with these limits, shall be determined through the use of the following equation: Ce = Co + Dm (Co − Cs)
Where:
Ce = the maximum allowable concentration,
Co = the concentration in Part I.A.2.a. which is to be met at the completion of initial dilution,
Cs = background seawater concentration (See part III.C.19),
Dm = minimum probable initial dilution expressed as parts seawater per part wastewater.

b. Samples taken in compliance with the monitoring requirements specified in Condition A.2.a., above, shall be taken at the following location: at a point in discharge 002 prior to entry into the waters of the Pacific Ocean.

3. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through June 30, 1984, the permittee is authorized to discharge from outfall serial numbers 003–007.

a. Such discharges shall be limited and monitored by the permittee as specified below:

Serial Nos. and outfalls.	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
003—Produced Sand [1]	Quantity (m^3)		Once/month	Estimate
004—Well Completion and Treatment Fluids [1]	Volume (bbl/mo)		do	Do.
005—Deck Drainage [1]	Volume (bbl/mo)		do	Do.
006—Sanitary Waste	Flow Rate (MGD)		do	Do.
	Residual Chlorine	1.0 mg/l [2]	do	Do.
007-Domestic Waste				

[1] There shall be no discharge of free oil as a result of this discharge. The permittee shall make visual observations for the presence of free oil on the surface of the receiving water in the vicinity of the discharge on each day of discharge.
[2] Minimum of mg/l and maintained as close to this concentration as possible. This requirement is not applicable to facilities intermittently manned or to facilities permanently manned by nine (9) or fewer persons.

B. Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Pacific waters. In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may be sampled after mixing. In such cases, the discharge limitation shown above for sanitary waste shall apply to the mixed waste stream.

4. a. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through June 30, 1984, the permittee is authorized to discharge from outfall(s) serial number(s) 008–014 (miscellaneous discharges).

Discharge 008—Desalinization Unit Discharge.

009—Cooling water.

010—Bilge Water.

011—Ballast Water.

012—Excess Cement Slurry.

013—Control Fluid From Blow-Out Preventer.

014—Fire Control System Test Water.

b. There shall be no free oil in the receiving waters as a result of these discharges.

5. *Reopener Clause.* In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharge may cause unreasonable degradation of the marine environment.

6. *Commencement and Termination of Operations—Notification Requirements.* Written notification of commencement of operations including name and address of permittee, description and location of operation and of accompanying discharges shall be provided to the Regional Administrator at least fourteen (14) days prior to initiation of discharges. Permittees shall also notify the Regional Administrator upon permanent termination of discharge from these facilities. The permittee shall be the owner of the exploratory drillship or offshore platform or the leaseholder upon certification, in writing, to the Regional Administrator, prior to commencement of operation, that he shall assume full responsibility for compliance with this general permit. For operations on parcels for which a biological survey is required by Minerals Management Service (MMS) lease stipulation, the biological survey report and the plan of exploration/development shall be provided to EPA prior to initiation of discharges. Initiation of discharge under the permit may not begin until EPA has reviewed the survey report and the proposed operations and determined that this general permit is appropriate for the proposed discharges and notified the permittee in writing of this determination.

7. *Effective Date for Monitoring Requirement.* The monitoring requirements shall take effect upon commencement of discharge.

8. *Notification of Relocation by Exploratory Drilling Vessel.* No less than fourteen (14) days prior to any relocation and initiation of discharge activities at an authorized discharge site the permittee shall provide to the Regional Administrator written notification of such actions. The notification shall include the parcel number and exact coordinates of the new site and the initial date and expected duration of drilling activities at the site.

B. Other Discharge Limitations

1. Floating Solids or Visible Foam. There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Halogenated Phenol Compounds. There shall be no discharge of halogenated phenol compounds.

3. Surfactants, Dispersants, and Detergents. The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the U.S. Geological Survey.

4. Sanitary Wastes. Any facility using a marine sanitation device that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

C. Monitoring and Records

1. Representative Sampling. Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. Reporting Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. Penalties for Tampering. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. Reporting of Monitoring Results. Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form, EPA No. 3320–1 (DMR). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g., drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMR's.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required herein, shall be sumitted to the Regional Administrator at the following address: Director, Water Management Division, Region 9, U.S. Environmental Protection

Agency, 215 Fremont Street, San Francisco, CA 94105.

5. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. Averaging of Measurements. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least three (3) years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. Record Contents. Records of monitoring information shall include:

a. The date, place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

9. Inspection and Entry. The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. Anticipated Noncompliance. The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. Monitoring Reports. Monitoring results shall be reported at the intervals specified in Part I.C. of this permit.

3. Twenty-Four Hour Reporting of Noncompliance. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including dates and times, and, if the noncompliance.

The following shall be included as information which must be reported within 24 hours:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit;

b. Any upset which exceeds any effluent limitations in the permit; and

c. Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone #415–974–8289. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under Part I.D.3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part I.D.3.

5. Signatory Requirements. All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR § 122.22, as amended on September 1, 1983 (48 FR 39611).

6. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

Part II

A. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate permittee staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. this requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost.

3. Bypass of Treatment Facilities. a. Definitions.—(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which are reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations. The permittee may allow any bypass to

occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section.

c. Notice. (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I.D.3. (24-hour notice).

d. Prohibition of bypass. (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c. of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the three conditions listed above in paragraph d.(1) of this section.

4. Upset Conditions. a. Definition.—"Upset" means an exceptional incident in which there is unintentional and temporary noncopmliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I.D.3. (24-hour notice); and

(4) The permittee complied with any remedial measures required under part II.B.4. (duty to mitigate).

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. Duty to Comply with Toxic Effluent Standards. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. Penalties for Violation of Permit Conditions. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 303, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or both.

4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause, as provided in 40 CFR 122.7(f), 122.15, 122.16, and 122.17. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or notification of planned changes or anticipated noncompliance, does not stay any permit action.

6. Civil and Criminal Liability. Except as provided in permit conditions on "Bypasses" (Part II.A.3.) and "Upsets" (Part II.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

8. State Coastal Zone Management Plan Consistency. Discharge from drilling vessels, production platforms or other facilities engaged in exploratory drilling or production of oil and gas is prohibited until the plan of exploration or development, for each affected parcel, is determined to be consistent with the Coastal Zone Management Plan by the Coastal Commission of the State of California and the consistency concurrence of the Coastal Commission is submitted to EPA. This provision applies only to facilities commencing operation after the date of this notice.

9. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

10. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

11. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Part III Other Requirements

A. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this permit;

c. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

d. Effluent limitation guidelines are promulgated for point sources covered by this permit;

e. A Water Quality Management Plan containing requirements applicable to such point source is approved; or

f. The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any permittee authorized by this permit to apply for an individual NPDES permit only if the permittee has been notified in writing that a permit application is required.

B. When an Individual NPDES Permit May Be Requested

a. Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The permittee shall submit an application together with the reasons supporting the request to the Regional Administrator.

b. When an individual NPDES permit is issued to an permittee otherwise subject to this general permit, the applicability of this permit to that owner or permittee is automatically terminated on the effective date of the individual permit.

A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

C. Definitions

1. "Cooling water" means once through non-contact cooling water.

2. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

3. "Deck drainage" means all waste resulting from platform washing, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

4. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

5. "Domestic waste" includes discharges from galleys, sinks, showers, and laundries.

6. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. "Drill cuttings" means particles generated by drilling into subsurface geolgical formations.

8. "Drilling muds" means any fluid sent down the well hole, including any specialty products, from the time a well is begun until final cessation of drilling in that hole.

9. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

10. "Produced sands" means sands and other solids removed from the produced waters.

11. "Sanitary waste" means human body waste discharged from toilets and urinals.

12. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

13. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

14. A "discrete sample" means any individual sample collected in less than fifteen minutes.

15. For flow rate measurements, a "composite sample" means the arithmetic mean of no fewer than eight individual measurements taken at equal intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

For oil and grease measurements, a "composite sample" means four samples taken over a twenty-four hour period analyzed separately and the four samples averaged. The daily maximum limitation for oil and grease is based on this definition of a composite sample.

For measurements other than flow rate or oil and grease, a composite sample means a combination of no fewer than eight individual samples obtained at equal time intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

16. Mixing Zone—the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all direction from the discharge point or to the boundary of the zone of initial dilution as calculated by a plume model or other method approved by the Regional Administrator.

17. Limiting Permissible Concentraion—that concentraion which, outside the boundaries of a mixing zone as defined in Part III.C.16 above, will not exceed 0.01 of a concentration shown to be acutely toxic (96 hr. LC 50) to appropriate sensitive marine organisms in a bioassay carried out in accordance with Condition I.A.1.g. When there is reasonable scientific evidence on a specific waste material to justify the use of an application factor other than 0.01, the Regional Administrator may approve the use of such alternative factor in calculating the LPC.

18. Generic Drilling Mud. a. A drilling mud where the components and the heavy mnetal concentrations in the whole mud do not exceed the below maximum values:

Drilling mud components		Maximum heavy metal concentration	
Component	Pounds per barrell	Species	Concentration parts per million
Barite	176.0	Arsenic	3.0
Bentonite	32.1	Barium	141,00
Chrome lignosulfonate	4.0	Cadmium	1.0
Lignite	5.0	Chromium (total)	265.0
Polyonionic cellulose	1.0	Copper	26.0
Salt	10.0	Lead	24.0
Caustic	1.5	Mercury	1.0
Cellex	0.1	Nickel	8.0
Extractable organics	(1)	Vanadium	35.0
Drill solids	52.0	Zinc	181.0
Lime	1.5		

[1] 0.8 Milligram per gram.

b. Alternatively, a drilling mud for which the 96 hour LC 50 concentrations, obtained via bioassay procedures defined in Part I.A.1.h of this permit, are

equal to or greater than 53,000 ppm for the suspended particulate phase and 283,000 ppm for the liquid phase, or;

c. A drilling mud which, on the basis of information provided by the permittee, including the concentrations of components of the drilling muds, any bioassay data for similar drilling muds, and the rate and quantities of drilling muds discharged, as determined by the Regional Administrator, would not constitute, when discharged, a significant threat to the marine environment.

19. Background Seawater Concentration:

Waste constituent	Composite sample milligram per liter
Arsenic	0.003
Cadmium	0.000
Total chromium	0.000
Copper	0.002
Lead	0.000
Mercury	0.00006
Nickel	0.00
Silver	0.00016
Zinc	0.008
Cyanide	0.000
Phenolic compounds	0.0

[FR Doc. 83-32589 Filed 12-7-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-352, PH FRL-2468-2]

Pesticide Petition; American Cyanamid Company

Correction

In FR Doc. 83-30540, beginning on page 51838 in the issue of Monday, November 14, 1983, make the following correction.

On page 51839, first column, tenth line of "**SUPPLEMENTARY INFORMATION**", "((≥)" should have read "((±)".

BILLING CODE 1505-05-M

[OPTS 41012 TS-FRL 2462-1]

Chemicals To Be Reviewed by the Toxic Substances Act Interagency Testing Committee; Public Meeting and Request for Information

Correction

In FR Doc. 83-29865 beginning on page 51519 in the issue of Wednesday, November 9, 1983, make the following corrections.

On page 51520, correct the listing in the second and third columns as follows:

1. "CAS No. 75-63-9" should have read "75-63-8";

2. "CAS No. 87-24-4" should have read "88-24-4";

3. "CAS No. 38051-01-4" should have read "38051-10-4";

4. In "CAS No. 68457-79-4, "zince" should have read "zinc".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

November 30, 1983.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. These are existing information collection requirements in use without OMB numbers. No changes are proposed.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on any of these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

Part or section No.	Title
Part 31 (§§ 31.01-2(d)(1)-(3), 31.01-9 31.02-80(a), 31.02-83, 31.1-16, 31.100:3(a), 31.100:4(1), 31.100:4(3), 31.138(c), 31.2-21(e), 31.2-26, 31.3-32(c), 31.231(b), 31.326(b) & (c), 31.327(c) & (d), 31.6-64, 31.609, 31.611, 31.614, 31.672(d)).	Uniform System of Accounts for Class A and Class B Telephone Companies.
Part 61	Tariffs.
Part 67	Separations.
Part 68 (§ 68.106, 68.108, 68.110).	Connection of Telephone Equipment to the Telephone Network.
Section 74.433	Temporary Authorizations.
Section 74.452	Equipment Changes.
Section 74.537	Temporary Authorizations.
Section 74.551	Equipment Changes.
Section 74.603	Sound Channels.
Section 74.604	Frequency Selection to Avoid Interference.
Section 74.633	Temporary Authorizations.
Section 74.651	Equipment Changes.
Section 74.703	Interference.
Section 74.751	Modification of Transmission Systems.
Section 74.781	Station Records.
Section 74.784	Rebroadcasts.
Section 74.833	Temporary Authorizations.
Section 83.42(b)	Changes during License Term.
Section 83.48	Discontinuance of Operation.
Section 83.72	Temporary Waiver of Annual Inspection.
Section 83.115	Retention of Radio Station Logs.
Sections 83.184 and 83.340	Maintenance of Station Logs (83.184); Station Logs (83.340).
Sections 83.184 and 83.368	Maintenance of Station Logs (83.184); Radiotelephone Station Log (83.368).
Section 83.339	Station Documents.
Section 83.367	Station Documents.
Section 83.405	Special Provisions Applicable to Ship-Radar Stations.
Section 83.501	Card of Instructions.
Section 83.819	Station Records.
Section 90.176	Interservice Sharing of Frequencies in the 150-174 MHz Band.
Section 90.177	Protection of Certain Radio Receiving Locations.
Section 90.179	Shared Use of Radio Stations.
Section 90.215	Transmitter Measurements.
Section 90.239(d)	Interim Provisions for Operation of Automatic Vehicle Monitoring (AVM) Systems (Supplemental Showing Required).
Section 90.263	Substitution of Frequencies Below 25 MHz.
Section 90.356	Supplemental Information to be Furnished by Applicants for Facilities under this subpart.
Section 90.382	Supplemental Reports Required of Licensees Authorized under the subpart.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-32650 Filed 12-7-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection

Application for a Merger or Other Transaction Pursuant to Section 18(c) of the Federal Deposit Insurance Act (Phantom or Corporate Reorganization).

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Judy McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington D.C. 20503 and to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Federal

Deposit Insurance Corporation Washington, D.C. 20429, telephone (202) 389–4351.

SUMMARY: Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c) requires an insured bank that wishes to merge or consolidate with another bank or institution, either directly or indirectly, or acquire the assets of or assume liability to pay any deposits made in any other institution, to apply to the responsible bank supervisory agency for approval. The information furnished in the application is used by the FDIC to evaluate the required statutory factors. The application form, FDIC 6220/07, is used for merger type transactions that involve a corporate reorganization or a "phantom" bank merger.

Current authority for this information collection (OMB No. 3064–0015) expires on December 31, 1983. This submission involves a revision to the application form to eliminate some areas that have become obsolete and to focus the information collection on the purpose and structure of the transaction. It is estimated that the revised form saves approximately 10 hours of reporting burden per application. The total reporting burden is now estimated to be 5,600 hours annually.

Dated: December 5, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-32584 Filed 12-7-83; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted To OMB For Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection

Consolidated Reports of Condition and Income (Insured Savings Banks).

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Judy McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389–4351.

SUMMARY: The information collection submission revises the Consolidated Reports of Conditions and Income (Call Reports) filed by insured savings banks. The proposed revisions affect Call Reports beginning with those filed as of March 31, 1984.

The revisions fall into two areas:

(1) The addition to three items to page one of the Report of Condition and four items to page two, Section B, of the Report of Income. These items relate to capital stock accounts and transactions that affect savings banks that have converted to the stock form of ownership.

(2) The addition of one memorandum item to page two of the Report of Condition to obtain data on the amount of brokered retail deposits.

The estimated annual reporting burden of the additions proposed by this submission are expected to be offset by the deletion of two memoranda items, "Money Market Time Deposits" and "All Savers Certificates," from page two of the Report of Condition effective with reports for December 31, 1983.

Dated: December 5, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-32587 Filed 12-7-83; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Information Collection in Existing Regulation

Title: Administration Claims and Federal Tort Claims Act

Abstract: A claimant may be required to submit evidence and or information in support of claims based on death, personal injury, and a claim for injury to or loss of real or personal property. Data is needed to determine the validity and action of the claim.

Type of respondents: Individuals or Households

Number of respondents: 20

Burden hours: 20

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Date: December 2, 1983.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 83-32587 Filed 12-7-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

Metro Federal Savings & Loan Association, Lake Charles, La.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in 5(d)(6)(A) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Metro Federal Savings and Loan Association, Lake Charles, Louisiana, on Friday, December 2, 1983.

Dated: December 5, 1983

J. J. Finn,

Secretary.

[FR Doc. 83-32634 Filed 12-7-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from Ronald D. Murphy, Agency Clearance Officer, Federal Maritime Commission, 1100 L Street, NW., Room 10101, Washington, D.C. 20573, telephone number (202) 523–5900. Comments may be submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget,

Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the Federal Register in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR Part 528—Self-Policing Requirements for Section 15 Agreements

General Order 7 is the Commission's regulation to enforce provisions of Section 15 of the Shipping Act, 1916, regarding self-policing whereby the Commission shall disapprove any agreement thereunder if, after notice and hearing, it finds inadequate policing of the obligations under the agreement. Ocean carriers which belong to rate-fixing bodies or "conferences" are required to file semi-annual self-policing reports with the Commission.

FMC requests OMB clearance of a revision of the rule. With the proposed changes, neutral bodies would be: allowed the option of issuing warning letters and reporting the number issued to the Commission; required to engage in inspection activities at point of origin and destination; required to report budget manhours instead of budget dollars; required to conduct an annual audit of member lines; and required to establish an ongoing cargo inspection program. Conferences would be required to establish an Oversight Committee to file and certify self-policing reports filed by the neutral bodies. The report also proposes two options for a standardized reporting format—Option A which represent a refinement and reorganization of the present reporting requirements of General Order 7, or Option B which would substitute summary information for specific details of investigative bodies.

The Commission estimates 90 conferences filing reports and 6 neutral bodies acting as recordkeeping with an annual manhour burden of 1440 and 180, respectively. Total estimated annual cost to the Government is $5400. Total estimated annual cost to the public is $34,000.

Francis C. Hurney,

Secretary.

[FR Doc. 83-32659 Filed 12-7-83; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Schedule for Awarding SES Bonuses

The General Services Administration plans to award bonuses to Senior Executive Service members on or about December 22, 1983.

For further information, contact Gregory Knott, Director, Executive Resources Division (202-566-1207). Mailing address: General Services Administation (EPX), Washington, DC 20405.

Dated: December 6, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-32861 Filed 12-7-83; 10:17 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0379]

ICI Americas, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Adminstration (FDA) is announcing that ICI Americas, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tris(2-methyl-4-hydroxy-5-*tert*-butylphenyl)butane as an antioxidant in closures with sealing gaskets for food containers.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3758) has been filed by ICI Americas, Inc., Wilmington, DE 19897, proposing that the food additive regulations be amended to provide for the safe use of tris(2-methyl-4-hydroxy-5-*tert*-butylphenyl)butane as an antioxidant in closures with sealing gaskets for food containers conforming with 21 CFR 177.1210.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-32644 Filed 12-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0359]

Pluess-Staufer (California) Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug administration (FDA) is announcing that Pluess-Staufer (California) Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of calcium carbonate treated with glyceryl tri-(acetoxy stearate) as an extender for thermoplastics.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B3565) has been filed by Pluess-Staufer (California) Inc., P.O. Box 825, Lucerne Valley, CA 92356, proposing that the food additive regulations be amended to provide for the safe use of calcium carbonate treated with glycerly tri-(acetoxy stearate) as an extender for thermoplastics intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-32645 Filed 12-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0382]

Optacryl, Inc.; Premarket Approval of Optacryl 60 Clear Rigid Gas Permeable Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Optacryl 60 Clear Rigid Gas Permeable Contact Lens sponsored by Optacryl, Inc. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 9, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301–427–7445.

SUPPLEMENTARY INFORMATION: On August 9, 1982, Optacryl, Inc., submitted to FDA an application for premarket approval of the Optacryl 60 Clear Rigid Gas Permeable Contact Lens. This lens is indicated for daily wear by non-aphakic persons with nondiseased eyes that require a spherical lens in the power range from −20.00 to +20.00 diopters (D) for the correction of nearsightedness (myopia), farsightedness (hyperopia), or corneal astigmatism not exceeding 4.00 D. The lens is to be disinfected using a chemical (not heat) disinfection system. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 3, 1983, FDA approved the application by letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices. The approval covers the production and distribution of the lens by Optacryl, Inc., and 169 contact lens finishing laboratories.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) and solutions for use with such contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), contact lenses made of polymers other than PMMA and solutions for use with such lenses are now regulated as class III medical devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of contact lenses or solutions for use with such lenses comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Restrictive labeling has been established for the Optacryl 60 Clear Rigid Gas Permeable Contact Lens. This labeling states that the lenses are to be used with a chemical disinfection system of specified lens solutions that FDA has approved for use with contact lenses made of polymers other than PMMA. This restrictive labeling also informs new users that they must avoid using certain products. The restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses made of polymers other than PMMA. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of 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 FDA'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 FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action 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 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 issues 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 January 9, 1984, 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.

Dated: December 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-32840 12-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0376]

Con-Cise Contact Lens Co.; Premarket Approval of PARAPERM O_2 ™ (Pasifocon A) Clear Rigid Gas Permeable Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the PARAPERM O_2™ (pasifocon A) Clear Rigid Gas Permeable Contact Lens sponsored by Con-Cise Contact Lens Co. After reviewing the recommendation of the Ophthalmic Device section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 9, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301-427-7445.

SUPPLEMENTARY INFORMATION: On January 14, 1983, Con-Cise Contact Lens Co. submitted to FDA an application for premarket approval of the PARAPERM O_2™ (pasifocon A) Clear Rigid Gas Permeable Contact Lens. This lens is indicated for daily wear by not-aphakic persons with nondiseased eyes that require a spherical lens in the power range from −20.00 to +20.00 diopters (D) for the correction of nearsightedness (myopia), farsightedness (hyperopia), or corneal astigmatism not exceeding 4.00 D. The lens is to be disinfected using a chemical (not heat) disinfection system. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 2, 1983, FDA approved the application by letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) and solutions for use with such contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), contact lenses made of polymers other than PMMA and solutions for use with such lenses are now regulated as class III medical devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications form premarket approval of contact lenses or solutions for use with such lenses comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Restrictive labeling has been established for the PARAPERM O_2™ (pasifocon A) Clear Rigid Gas Permeable Contact Lens. This labeling states that the lenses are to be used with a chemical disinfection system of specified lens solutions that FDA has approved for use with contact lenses made of polymers other than PMMA. This restrictive labeling also informs new users that they must avoid using certain products. The restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses made of polymers other than PMMA. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of 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 FDA'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 FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action 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 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 issues 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 January 9, 1984, 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.

Dated: December 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs

[FR Doc. 83-32841 Filed 12-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0375]

Paragon Optical, Inc.; Premarket Approval of PARAPERM O$_2$™ (Pasifocon A) Clear Rigid Gas Permeable Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Admendments of 1976 of the PARAPERM O$_2$™ (pasifocon A) Clear Rigid Gas Permeable Contact Lens sponsored by Paragon Optical, Inc. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 9, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301-427-7445.

SUPPLEMENTARY INFORMATION: On May 3, 1983, Paragon Optical, Inc., submitted to FDA an application for premarket approval of the PARAPERM O$_2$™ (pasifocon A) Clear Rigid Gas Permeable Contact Lens. This lens is indicated for daily wear by not-aphakic persons with nondiseased eyes that require a spherical lens in the power range from −20.00 to +20.00 diopters (D) for the correction of nearsightedness (myopia), farsightedness (hyperopia), or corneal astigmatism not exceeding 4.00 D. The lens is to be disinfected using a chemical (not heat) disinfection system. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 2, 1983, FDA approved the application by letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices. The approval covers the production and distribution of the lens by Paragon Optical, Inc., and 103 contact lens finishing laboratories.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) and solutions for use with such contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), contact lenses made of polymers other than PMMA and solutions for use with such lenses are now regulated as class III medical devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of contact lenses or solutions for use with such lenses comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310), until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for puplic inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Restrictive labeling has been established for the PARAPERM O$_2$™ (pasifocon A) Clear Rigid Gas Permeable Contact Lens. This labeling states that the lenses are to be used with a chemical disinfection system of specified lens solutions that FDA has approved for use with contact lenses made of polymers other than PMMA. This restrictive labeling also informs new users that they must avoid using certain products. The restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses made of polymers other than PMMA. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warrant-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, wherever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of 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 FDA'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 FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action 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 their is 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 issues 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 January 9, 1984, 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.

Dated: December 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-32639 Filed 12-7-83; 8:45 am]

BILLING CODE 4162-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Mineral Lands Leasing Act; Status of Finland; Request for Comments

AGENCY: Office of the Secretary, Interior.

ACTION: Request for comments on the status of Finland under the Mineral Leasing Act of 1920.

SUMMARY: The Mineral Leasing Act of 1920 provides that "[c]itizens of another country, the laws, customs or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding or stock control, own any interest in any lease acquired under the provisions of this Act." The Department of the Interior hereby gives notice that it will accept written comments to gather additional information to be used in determining whether the laws, customs or regulations of Finland deny similar or like privileges within the meaning of the Mineral Leasing Act.

DATE: All comments should be submitted by January 9, 1984. Comments received after that date may not be considered in the final decisionmaking process.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5547 of the above address Monday through Friday from 7:45 a.m. to 4:15 p.m.

FOR FURTHER INFORMATION CONTACT:

Mark Alexander, (202) 653-2163

or

Mark Guidry (202) 343-5717.

SUPPLEMENTARY INFORMATION: The Government of Finland has requested that the Department of the Interior review its laws, customs and regulations in order to determine Finland's status under section 1 of the Mineral Leasing Act of 1920 (30 U.S.C. 181). The Department has reviewed the information submitted by the Government of Finland and particularly requests comments on the following points:

1. How Finland treats potential onshore development of oil and gas, coal, phosphate, potassium, sodium, Gilsonite and oil shale.

2. The customs and regulations of Finland implementing the law which authorizes limitation on foreign stock ownership in Finnish companies.

3. The customs and regulations of Finland implementing the laws allowing foreign participation in onshore and offshore mineral development.

4. Whether the laws, customs or regulations of Finland concerning investment in that nation's minerals treat citizens or companies of other countries differently than U.S. citizens or corporations.

5. The effect of the laws, customs or regulations of Finland on the investment behavior of U.S. citizens or corporations in the country's minerals.

The Department invites all persons interested in the status of Finland to submit written comments. Interested persons may include national and local government officials from the United States of Finland, representatives of interested corporations, and interested U.S. and Finnish citizens. Although submission of all relevant information on the above topics is specifically requested, the Department welcomes all comments relevant to the status of Finland.

Dated: December 1, 1983.

J. Steven Griles,

Acting Assistant Secretary of the Interior.

[FR Doc. 83-32628 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Revised List of National Species of Special Emphasis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Notice is given that the Fish and Wildlife Service (Service) has revised the list of fish, wildlife, and plant species tht serve as the focus of the service's regional resource planning process. These species, called national species of special emphasis (NSSEs), are considered to be of high biological, legal, and public interest and merit special effort and attention by the Service at the national level. A list of the NSSEs, further information about the planning process for these species, and opportunities for public participation are contained in this notice.

DATE: In order to be considered in this cycle of the planning process, comments on the list of NSSEs should be provided to the service by February 1, 1984.

ADDRESS: Interested parties should send comments to: Director, U.S. Fish and Wildlife Service, Office of Planning and Budget, 18th & C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Project Manager for National Planning, Fish and Wildlife Service, Division of Program Plans, 18th & C Streets, NW., Washington, D.C. 20240, telephone (202) 343-4902.

SUPPLEMENTARY INFORMATION: The regional resource planning process is one tool used by the Fish and Wildlife Service to coordinate resource management activities among regions, programs, and the various organizational levels. It consists of the following seven steps: (1) Conduct preplanning; (2) undertake resource analysis; (3) establish fish and wildlife objectives; (4) analyze problems; (5) develop, evaluate, and select strategies; (6) develop operations plans; and (7) produce a Regional Resource Plan (RRP). Each of the Service's seven regions prepares an RRP for those national species of special emphasis which occur in their region. These RRPs, which have a five-year planning horizon, contain problem analyses, strategies, and operations plans for achieving the species objectives established during this process. It is important to realize that many other species associated with the highlighted species also benefit from RRP implementation.

Regional resource planning is oriented toward species since the majority of Service authorities follow this theme (e.g., Migratory Bird Treaty Act, Endangered Species Act, Marine Mammal Protection Act, etc.), and because species numbers and distribution are the end products of habitat management. It also provides an additional basis for identifying priorities and associated decision making for habitat protection as specified by habitat-oriented legislation such as the Fish and Wildlife Coordination Act. It thus provides a tool for improved focus of resource management activities within the Service and collectively with the States, other Federal agencies and other cooperators.

As a first step in concentrating Service planning efforts on these species and groups of species considered to be of highest priority, some 859 species of special emphasis (SSEs) were identified in early 1982. These SSEs are defined as those fish, wildlife, and plant species (or

groups of species) of special biological, legal, or public interest to which Service effort and attention is focused.

To keep the first cycle planning efforts within workable limits and to focus the efforts on the highest priority concerns, the service selected 49 species and 19 species groups from this list for designation as NSSEs on the basis of several biological, political, social, and economic criteria (47 FR 39890, September 10, 1982). It is important to note that designation of NSSEs is solely for internal planning purposes of the Service. It does not create any regulation of the species.

RRPs are reviewed on a cyclic basis to strengthen and refine plans for species addressed in previous planning cycles, to improve coordination among regions, States, and others, and to prepare plans for newly designated NSSEs. Further, RRPs provide a foundation for measuring on-the-ground results of management. The Service completed the first regional resource planning cycle in September 1983, and is now beginning the second cycle. In addition to refining species strategies and strengthening coordination, the second cycle will address five new NSSEs and one new species group (see Table 1).

By this Notice, the Fish and Wildlife Service solicits comments and views from Federal and State agencies, conservation organizations, and other interested parties, regarding the list of national species of special emphasis.

Dated: November 30, 1983.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

BILLING CODE 4310-55-M

Table 1. National Species and Species Groups of Special Emphasis (NSSEs). Newly designated NSSEs are marked with an asterisk (*).

Mammals

Grizzly bear (Ursus arctos horribilis)
(Lower 48 States population)
Polar bear (Ursus maritimus)
Black-footed ferret (Mustela nigripes)
Sea otter (Enhydra lutris)
Coyote (Canis latrans)
Gray wolf (Canis lupus)
(Eastern and Rocky Mt. populations)
Walrus (Odobenus rosmarus)
West Indian manatee (Trichechus manatus)

Birds

Brown pelican (Pelecanus occidentalis) } Seabird group
Tundra swan (Cygnus columbianus)
Trumpeter swan (Cygnus buccinator)
White-fronted goose (Anser albifrons)
Snow goose (Chen caerulescens)
Brant (Branta bernicla)
Canada goose (Branta canadensis)
Wood duck (Aix sponsa) } Surface feeding duck group
Black duck (Anas rubripes)
Mallard (Anas platyrhynchos)
*Pintail (Anas acuta)
Canvasback (Aythya valisineria) } Bay duck group
Redhead (Aythya americana)
*Ring-necked duck (Aythya collaris)
California condor (Gymnogyps californianus)
Osprey (Pandion haliaetus)
Bald eagle (Haliaeetus leucocephalus)
Golden eagle (Aquila chrysaetos)
Peregrine falcon (Falco peregrinus)
Attwater's greater prairie-chicken (Tympanuchus cupido attwateri)
Masked bobwhite (Colinus virginianus ridgwayi)
Yuma clapper rail (Rallus longirostris yumanensis)
Light-footed clapper rail (Rallus longirostris levipes)
Sandhill crane (Grus canadensis)
Whooping crane (Grus americana)
*Piping plover (Charadrius melodus) } Shorebird group
American woodcock (Scolopax minor)
*Roseate tern (Sterna dougallii) } Gull and tern group
Eastern least tern (Sterna antillarum antillarum)
Interior least tern (Sterna antillarum athalassos)
California least tern (Sterna antillarum browni)
White-winged dove (Zenaida asiatica)
Mourning dove (Zenaida macroura)
Spotted owl (Strix occidentalis)

Birds (continued)

Red-cockaded woodpecker (Picoides borealis)
Kirtland's warbler (Dendroica kirtlandii)
(No specific species identified.) { Songbird group; Heron and allies group; Hawaiian forest bird group; Hawaiian water bird group; Blackbird and starling group

Reptiles

American alligator (Alligator mississippiensis)
(No specific species identified.) { Sea turtle group

Fish

Sea lamprey (Petromyzon marinus) (Great Lakes)
Coho salmon (Oncorhynchus kisutch)
(Anadromous populations - Pacific coast/Alaska)
*Sockeye salmon (Oncorhynchus nerka)
(Alaska populations) } Pacific salmon group
Chinook salmon (Oncorhynchus tshawytscha)
(Anadromous populations - Pacific coast/Alaska)
Cutthroat trout (Salmo clarki)
(Western U.S.)
Steelhead (Anadromous populations - Pacific coast/Alaska)/Rainbow trout (Salmo gairdneri) } Stream trout group
Atlantic salmon (Salmo salar)
(Anadromous populations)
Lake trout (Salvelinus namaycush)
(Great Lakes)
Cui-ui (Chasmistes cujus)
(Historical range)
Striped bass (Morone saxatilis)
(Anadromous populations - Atlantic/Gulf coasts)
(No specific species identified.) { *Great Lakes Percidae group; Upper Colorado River endangered fish group; Desert endangered fish group; Shad group; Exotic fish group

Molluscs

(No specific species identified.) { Endangered freshwater mollusc group

Plants

(No specific species identified.) { Southwest cactus group

[FR Doc. 83-32837 Filed 12-7-83; 8:45 am]
BILLING CODE 4310-55-C

Bureau of Land Management

Departmental Forms Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Information regarding onshore wells is being collected by the Bureau of Land Management and information regarding wells located on the Outer Continental Shelf is being collected by the Minerals Management Service. Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202–395–7340.

Title: 18 CFR Part 274—Supplementary Application for Natural Gas Category Determination Under Natural Gas Policy Act (NGPA) of 1978.

Departmental Form Number: DI–1918.

Frequency: On occasion.

Description of Respondents: Lessees and operators of Federal and Indian oil and gas leases.

Annual Responses: 3,750.

Annual Burden Hours: 15,000.

Bureau Clearance Officer (alternate): Linda Gibbs, 202–653–8853.

Dated: November 21, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-32832 12-7-83; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Exchange of Public Land for Private Land; Harney County, Oregon

The following described public lands have been examined and determined to be suitable for transfer out of Federal ownership by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Willamette Meridian

T. 40 S., R. 36 E.
Sec. 19: E½SE¼;
Sec. 20: SW¼NE¼, S½NW¼, SW¼, W½E½SE¼, W½SE¼;
Sec. 29: W½NE¼NE¼, NW¼NE¼, N½NW¼;
Sec. 30: NE¼NE¼.

The area described aggregates approximately 660.00 acres in Harney County.

In exchange for all or some of these lands the United States will acquire the following described private land from Wallace L. Coleman:

Willamette Meridian

T. 40 S., R. 34 E.
Sec. 1: S½SE¼;
Sec. 10: SE¼NE¼, E½SE¼;
Sec. 11: S½NW¼, W½SW¼;
Sec. 12: N½SE¼, NE¼;
Sec. 14: NW¼NW¼;
Sec. 23: SE¼SE¼;
Sec. 24: S½SW¼;
Sec. 25: S½NE¼, NW¼, N½S½, SE¼SW¼, S½SE¼.

The area described aggregates approximately 1280.00 acres in Harney County.

The purpose of the exchange is to facilitate the resource management program of the Bureau of Land Management. The private lands being offered have important values for recreation, wildlife habitat, watershed, livestock grazing, and wilderness. The public interest will be highly served by making this exchange.

This proposal is consistent with Bureau planning for the lands involved although 120 acres of Federal land have been added which were not specifically identified for exchange in the BLM Land Use Plan. Notice is hereby given that the land use plans are amended to allow for the disposal of these lands through land exchange. The additional lands were not identified for any higher priority values, the addition of the lands is consistent with other land use objectives, and their selection is not inconsistent with any other resource value allocations.

The comparative values per acre of the lands to be exchanged are unequal so acreage adjustments may be made and a cash payment paid by the private land owner in order to equalize the values based upon the final appraisal of the lands. The monetary adjustment will be for no more than 25 percent of the appraised value of the Federal lands involved.

The exchange will be subject to:

(1) A reservation to the United States of a right-of-way for ditches or canals under the Act of August 30, 1890.

(2) Valid existing rights including but not limited to any right-of-way, easement, or lease of record.

Publication of this notice has the effect of segregating all of the above described Federal land from appropriation, under the public land laws and these lands are further segregated from appropriation under the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years from the date of the publication of this notice, whichever occurs first.

Detailed information concerning the exchange is available for review at the Burns District Office of the Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720.

For a period of 45 days, interested parties may submit comments to the Burns District Manager at the above address. Any adverse comments will be evaluated by the Oregon State Director, BLM, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: November 27, 1983.

Joshua L. Warburton,

District Manager.

[FR Doc. 83-32860 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-33-M

Arizona, Safford District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona, Safford District Advisory Council Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–579 and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held January 13, 1984 in Safford, Arizona at 10:00 at the Safford District Office, 425 East 4th Street, Safford, Arizona.

The agenda for the meeting will include:

1. Update of committee meeting with property owners adjacent to Aravaipa Canyon Primitive Area;
2. Gila Box Coordinated Resource Management Plan;
3. Update on BLM's Cooperative Management Agreement;
4. Management update;
5. Business from the floor.

The meeting is open to the public. Interested persons may make oral statements to the council between 1:00 p.m. and 2:00 p.m. A written copy of the oral statement must be provided at the conclusion of the presentation. Written statements may also be filed for the council's consideration. Anyone wishing to make an oral statement must notify the District Management at the above address by January 12, 1984. Depending upon the number of persons wishing to make an oral statement, a per-person time limit may be considered.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction (within regular business hours) within 30 days following the meeting.

Dated: December 2, 1983.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 83-32638 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-32-M

Colorado; Filing of Plats of Survey

December 1, 1983.

The plats of survey of the following described lands were offically filed in the Colorado State Office, Bureau of Land Managment, Denver, Colorado, effective 10:00 a.m., November 30, 1983.

The plat, in two sheets, representing the dependent resurvey of the north, east, and a portion of the west boundaries, and the metes-and-bounds survey of tracts 37 through 44, T. 39 N., R. 13 W., New Mexico Principal Meridian, Colorado, Group No. 521, was accepted September 22, 1982.

This survey was executed to meet certain adminstrative needs of the U.S. Forest Service.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., December 1, 1983.

The plat, in four sheets, representing the dependent resurvey of a portion of the south, east, and north boundaries, T. 43 N., R. 12 W., the south boundary, T. 44 N., R. 11 W., the south boundary and a portion of the east boundary, portions of the subdivisional lines and certain mineral surveys; the survey of the subdivision of certain sections, the metes-and-bounds survey of private land claims, and public land tracts 39, 40, 40A, and 40B; and an independent resurvey of a portion of the east boundary, T. 43 N., R. 11 W., New Mexico Principal Meridian, Colorado, Group No. 616, was accepted November 1, 1983.

The plat, in four sheets, representing the dependent resurvey of a portion of the west boundary, subdivisional lines, and certain mineral claims; the survey of the subdivision of sections 34 and 35, and the metes-and-bounds survey of certain lots in T. 44 N., R. 11 W., New Mexico Principal Meridian, Colorado, Group No. 616, was accepted November 8, 1983.

The plat representing the dependent resurvey of a portion of the subdivisional lines and certain mineral claims; the survey of the subdivision of section 4 and the survey of the boundary of Exchange No. C-35420, in T. 43 N., R. 4 W., New Mexico Principal Meridian, Colorado, Group No. 736, was accepted November 18, 1983.

The plat, representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, a portion of the Lake City Townsite, and certain mineral claims, and the survey of the subdivision of section 34, T. 44 N., R. 4 W., New Mexico Principal Meridian, Colorado, Group No. 736, was accepted November 18, 1983.

The plat, representing the dependent resurvey of a portion of the west boundary, T. 42 N., R. 4 W., and portions of certain mineral claims, and the survey of Public Land Tracts 40 and 41, T. 42 N., R. 5 W., New Mexico Principal Meridian, Colorado, Group No. 736, was accepted November 18, 1983.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 83-32633 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-84-M

Oregon/Washington; Filing of Plats of Survey

The plats of survey of the following described lands were officially filed in the Oregon State Office, Bureau of Land Management, Portland, Oregon, on November 22, 1983:

Willamette Meridian

T. 12 S., R. 3 E., OR, Dependent resurvey & subdivision, Group 1040, accepted October 28, 1983.

T. 26 S., R. 8 W., OR, Dependent resurvey, Group 1065, accepted November 16, 1983.

T. 27 S., R. 8 W., OR, Dependent resurvey & subdivision, Group 981/1065, accepted November 16, 1983.

T. 31 N., R. 38 E., WA, Dependent resurvey & subdivision, Group 285.

T. 31 N., R. 39 E., WA, Dependent resurvey & subdivision, Group 285, Page 1.

T. 31 N., R. 39 E., WA, Dependent resurvey & subdivision, Group 285, Page 2.

The above three Washington plats were accepted October 21, 1983.

All inquiries about these lands should be sent to the Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 1, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-32696 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-84-M

[W-83356]

Proposed Continuing of Withdrawals; Wyoming

The Bureau of Land Management, U.S. Department of the Interior, proposes to continue the existing withdrawals of the following public lands for a 20-year period pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714). The lands were withdrawn by the following orders for stock driveways: Secretarial Orders of May 24, 1918, October 14, 1918, December 9, 1918, February 10, 1919, April 8, 1919, February 19, 1920, January 31, 1920, June 7, 1920, February 5, 1924, April 7, 1929, April 9, 1929, April 17, 1929, July 7, 1932, May 26, 1934, January 20, 1943, August 30, 1945, September 15, 1950, and Bureau of Land Management Order of January 29, 1952.

The above orders will be continued insofar as they affect the following described lands:

Sixth Principal Meridian, Wyoming

T. 46 N., R. 86 W.,
- Sec. 3, lots 10, 11;
- Sec. 4, SW¼SE¼, SE¼SE¼;
- Sec. 8, lots 6, 7, SW¼SW¼, SW¼SE¼;
- Sec. 7, lot 1, W½NE¼, SE¼NE¼, NE¼NW¼;
- Sec. 8, lots 1–8 incl.;
- Sec. 9, N½NE¼, SW¼NE¼, NW¼;
- Sec. 10, N½NE¼, NE¼NW¼;
- Sec. 11, N½NW¼;
- Sec. 12, NE¼NW¼.

T. 47 N., R. 87 W.,
- Sec. 18, lot 4, SW¼SW¼;
- Sec. 19, lots 1, 2, NE¼, E½NW¼, E½SE¼;
- Sec. 20, W½NW¼, W½SW¼, SE¼SW¼;
- Sec. 28, S½SW¼;
- Sec. 29, SW¼NE¼NW¼NE¼, W½NW¼NE¼, SE¼NW¼NE¼, SW¼NE¼, E½NW¼, E½SE¼, NW¼SE¼;
- Sec. 33, S½NE¼, N½NE¼SE¼, E½SE¼SE¼SE¼;
- Sec. 34, S½NW¼, SW¼.

T. 47 N., R. 88 W.,
- Sec. 13, lots 7–9 incl., SW¼SW¼, E½SW¼, W½SE¼;
- Sec. 14, lots 1–4 incl.
- Sec. 21, lots 1–3 incl., NE¼SE¼;SE¼;
- Sec. 22, lots 1–8 incl., S½NE¼;
- Sec. 23, lots 1, S½NE¼, NE¼NW¼, S½NW¼;
- Sec. 24, lots 1, 2, W½NE¼, S½NW¼.

T. 46 N., R. 87 W.,
- Sec. 1, S½;
- Sec. 2, S½;
- Sec. 3, S½SW¼, S½SE¼;
- Sec. 4, S½NE¼, S½SE¼;

Sec. 9, N½NE¼;
Sec. 10, N½NE¼, N½NW¼;
Sec. 11, N½NE¼, N½NW¼;
Sec. 12, N½NE¼, N½NW¼.
T. 53 N., R. 92 W.,
Sec. 3, lots 3–8 incl., S½NE¼, S½NW¼, S½;
Sec. 10, All;
Sec. 15, All;
Sec. 22, All;
Sec. 27, N½N½S½.
T. 54 N., R. 92 W.,
Sec. 6, lots 1–5 incl., 8–15 incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1–8 incl., NE¼SW¼, E½, E½NW¼, N½SE¼SW¼;
Sec. 17, All;
Sec. 18, lots 1–8 incl., E½, E½NW¼, E½SW¼;
Sec. 20, E½;
Sec. 21, W½;
Sec. 27, SW¼;
Sec. 28, W½, SE¼;
Sec. 29, SW¼NE¼, W½SE¼NE¼, SE¼SE¼NE¼, SE¼;
Sec. 33, E½;
Sec. 34, N½, SW¼;
Sec. 35, N½;
T. 55 N., R. 92 W.,
Sec. 6, lot 1–14 incl., S½NE¼, SE¼;
Sec. 7, lots 1–12 incl., E½;
Sec. 8, S½;
Sec. 9, lots 1–4 incl., S½N½;
Sec. 10, lots 3–7 incl., NE¼SW¼, N½SE¼;
Sec. 18, lots 1–3 incl., lots 6, 7, 8, 10, 11, 12, E½;
Sec. 19, lots 1–12 incl., E½;
Sec. 30, lots 1–12 incl., E½;
Sec. 31, lots 1–12 incl., E½.
T. 56 N., 92 W.,
Sec. 30, lots 1–8 incl., E½, E½W½, SE¼;
Sec. 31, lots 1–8 incl., E½, E½W½, SE¼.
T. 49 N., R. 88 W.,
Sec. 1, lots 11, 12, 13, SE¼SE¼;
Sec. 2, lots 12, 13, S½SW¼;
Sec. 8, lots 1–4 incl., E½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, lots 1, 2, SW¼NE¼, NW¼, NW¼SW¼;
Sec. 12, lots 1–4 incl., NW¼.
T. 49 N., R. 101 W.,
Sec. 4, lots 1–3 incl.;
Sec. 17, lots 7, 8;
Sec. 19, SE¼;
Sec. 20, lots 4, 5, W½SW¼;
Sec. 30, lots 1, 2, NE¼, E½NW¼.
T. 50 N., R. 101 W.,
Sec. 1, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 2, lots 1–3 incl., S½NE¼, SE¼NW¼, SE¼;
Sec. 12, lots 1, NE¼, N½NW¼, SE¼NW¼;
Sec. 13, lots 1, 6, SE¼NE¼, NE¼SE¼;
Sec. 21, lots 6, 7, SE¼SE¼;
Sec. 22, lots 1, 2, SE¼;
Sec. 25, N½NE¼, SW¼NE¼, E½NW¼, E½SW¼;
Sec. 26, SE¼;
Sec. 33, lots 1, 8, NW¼NE¼, E½NW¼;
Sec. 34, lots 4–6 incl., E½NE¼, E½SW¼, SW¼SW¼, SE¼;
Sec. 35, lots 1–5 incl., NW¼, N½SW¼, SE¼SW¼;
Tract 47D;
Tract 47E.

T. 48 N., R. 102 W.,
Sec. 3, lots 1–3 incl., 5–7 incl., N½SW¼, W½SE¼
Sec. 10, W½NE¼, W½SE¼;
Sec. 19, lot 1, S½NE¼, E½NW¼.
T. 49 N., R. 100 W.,
Sec. 2, N½SW¼, N½SE¼, SE¼, SE¼;
Sec. 3, lots 2, 3, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 11, NE¼NE¼;
Sec. 12, lot 1.
T. 51 N., R. 101 W.,
Sec. 22, lots 2–6 incl., SW¼SE¼;
Sec. 26, W½SW¼, SE¼SW¼;
Sec. 27, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 35, SE¼SW¼.
T. 52 N., R. 102 W.,
Sec. 1, S½NE¼SE¼, SE¼SE¼;
Sec. 12, lots 4, 5, E½NE¼, SE¼SW¼;
Sec. 3, lots 4, 5.
T. 50 N., R. 101 W.,
Lot 38, A, B, G, and H.
T. 48 N., R. 102 W.,
Sec. 23, W½NE¼, S½SE¼;
Sec. 28, NE¼.
T. 49 N., R. 102 W.,
Sec. 25, lots 1, 2, N½, E½SW¼, SE¼;
Sec. 26, lots 6–8 incl., S½SW¼;
Sec. 34, N½SE¼;
Sec. 35, lots 1, 2, W½;
Sec. 36, lots 2, 3.
T. 49 N., R. 103 W.,
Sec. 34, lot 1.
T. 50 N., R. 100 W.,
Sec. 5, lot 2, SW¼NE¼, S½NW¼;
Sec. 6, lots 5–7 incl., S½NE¼, SE¼NW¼;
Sec. 7, lots 1, 2;
Sec. 27, SW¼NW¼, N½SW¼;
Sec. 28, NE¼, SE¼SW¼, SE¼;
Sec. 29, SW¼, S½SE¼;
Sec. 30, lot 3, NE¼SW¼, N½SE¼;
Sec. 33, E½E½;
Sec. 34, W½NW¼, SW¼.
T. 51 N., R. 100 W.,
Sec. 25, lot 1, N½SW¼;
Sec. 26, lot 1, SW¼, N½SE¼;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, SE¼;
Sec. 32, W½NE¼, W½SE¼;
Tract 66–0.
T. 52 N., R. 101 W.,
Sec. 6, lots 1–3 incl.;
Sec. 7, lots 2–5 incl., E½W½;
Sec. 18, lot 1, W½NE¼, E½NW¼, SE¼;
Sec. 19, E½E½;
Sec. 20, E½;
Sec. 29, E½;
Sec. 30, E½E½;
Sec. 32, W½.
T. 48 N., R. 90 W.,
Sec. 5, lot 6;
Tract 57;
Tract 58, lot 10.
T. 55 N., R. 102 W.,
Sec. 4, lot 6, S½NE¼, E½SE¼;
Sec. 9, E½NE¼, NE¼SE¼;
Sec. 10, E½SW¼;
Sec. 15, N½NW¼, SE¼NW¼, E½SW¼;
Sec. 22, N½NE¼, NE¼NW¼;
Sec. 23, SW¼NE¼, W½SE¼.
T. 57 N., R. 102 W.,
Sec. 30, lots 3, 4, E½SW¼, SE¼;
Sec. 32, W½.
T. 58 N., R. 103 W.,
Sec. 1, lots 9–11 incl.

T. 56 N., R. 102 W.,
Sec. 5, lots 16, 19, 20, 22;
Sec. 6, lots 14–17 incl., 22–24 incl., E½SE¼;
Sec. 33, lot 3, SW¼SE¼;
Tract 86–87;
Tract 148–150 incl.,
Tract 162;
Tract 179;
Tract 189;
Tract 204;
Tract 213;
Tract 230;
Tract 243;
Tract 255;
Tract 267;
Tract 274;
Tract 287;
Tract 297;
Tract 307;
Tract 321;
Tract 324.
T. 53 N., R. 101 W.,
Sec. 3, lot 8;
Sec. 4, lots 5, 6, SW¼NE¼, S½NE¼;
Sec. 5, N½SW¼, N½SE¼;
Sec. 6, lot 13, NE¼SW¼, N½SE¼.
T. 55 N., R. 101 W.,
Sec. 19, lot 10;
Sec. 29, N½NW¼, SE¼NW¼, NE¼SW¼, SW¼SW¼;
Sec. 30, N½NE¼, NE¼NW¼;
Sec. 32, lots 3, 4, E½NW¼.
T. 54 N., R. 101 W.,
Sec. 5, lots 5–8 incl., SE¼NE¼, E½SE¼;
Sec. 8, E½NE¼, NE¼SE¼;
Sec. 9, E½SW¼, NW¼SW¼;
Sec. 18, lots 1–3 incl., SE¼SW¼;
Sec. 21, SW¼NE¼, E½NW¼, W½SE¼;
Sec. 28, W½NE¼, W½SE¼;
Sec. 33, N½NE¼;
Sec. 34, W½NW¼, W½SW¼.
T. 53 N., R. 102 W.,
Sec. 1, N½SW¼, N½NE¼;
Sec. 2, N½SW¼, N½NE¼;
Sec. 3, lot 10;
Sec. 10, lots 1, 2, S½NE¼;
Sec. 11, SW¼NW¼, N½SW¼, SE¼SW¼;
Sec. 13, lots 4, 5;
Sec. 14, lots 1, 2, W½NE¼, NE¼NW¼, NW¼SE¼;
Sec. 24, lot 3, NW¼NW¼.
T. 48 N., R. 100 W.,
Sec. 31, W½E½.
T. 41 N., R. 87 W.,
Sec. 4, Tr. 46A, 46B, 46C, and 46D, lots 5, 6 and 7;
Sec. 5, lots 5–9 incl., NE¼SE¼;
Sec. 6, lots 8, 9, 10, and 12.
T. 41 N., R. 88 W.,
Sec. 1, SW¼SW¼;
Sec. 2, lots 9, 10, NE¼SW¼, S½SE¼;
Sec. 4, lots 6, 7, 9, and 11, NW¼SW¼, NW¼SE¼;
Sec. 8, SE¼NE¼, E½SE¼;
Sec. 9, lots 2, 3, 4, 7, and 8, SW¼NW¼, W½SW¼;
Sec. 17, lots 1, 2, and 3, N½NE¼, SW¼NE¼;
Sec. 20, lots 1–4 incl.
T. 42 87 N., R. W.,
Sec. 34, SW¼NW¼, N½S½.
T. 42 N., R. 88 W.,
Sec. 5, lots 3, 4, SW¼NE¼, S½NW¼, E½SE¼, W½SW¼;
Sec. 6, lots 8–15 incl.;

Sec. 8, W½NE¼, E½NW¼, SE¼;
Sec. 9, SW¼;
Sec. 15, SW¼;
Sec. 22, W½;
Sec. 27, W½;
Sec. 28, E½SE¼;
Sec. 33, E½E½, SW¼SE¼;
Sec. 34, S½NE¼, W½, N½SE¼;
Sec. 35, SE¼.
T. 43 N., R. 88 W.,
Sec. 30, lots 1–4 incl., E½E½;
Sec. 31, lots 1–4 incl., E½E½.
T. 44 N., R. 91 W.,
Sec. 5, lots 6, 7, 8, SW¼, NW¼SE¼;
Sec. 6, lots 8–14 incl., E½SW¼, SE¼;
Sec. 7, lots 5–8 incl., E½;
Sec. 8, S½NE¼, W½, SE¼;
Sec. 17, All;
Sec. 18, lot 5, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 20, All;
Sec. 21, All;
Sec. 22, All;
Sec. 23, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 24, All;
Sec. 13, S½S½;
Sec. 14, S½S½;
Sec. 15, S½S½;
T. 44 N., R. 92 W.,
Sec. 1, lots 5–8 incl., S½N½, S½ (All);
Sec. 2, lots 5–8 incl., S½N½, S½ (All).
T. 45 N., R. 92 W.,
Sec. 5, lots 5–8 incl., S½NW¼, S½;
Sec. 6, lots 5–8 incl., S½NE¼, S½;
Sec. 6, lots 8, 9, 10, 19, S½NE¼, E½SE¼;
Sec. 7, E½E½;
Sec. 8, All;
Sec. 17, All;
Sec. 18, E½E½;
Sec. 19, E½E½;
Sec. 20, N½, SW¼, W½SW¼;
Sec. 21, N½, E½SW¼, SE¼;
Sec. 22, All;
Sec. 23, All;
Sec. 26, All;
Sec. 27, N½NE¼, SE¼NE¼, N½NW¼, E½SE¼;
Sec. 34, E½E½;
Sec. 35, All.
T. 46 N., R. 92 W.,
Sec. 19, lots 11, 18, 21;
Sec. 30, lots 5–9 incl., 11–17 incl., 22–25 incl., N½SE¼;
Sec. 31, lots 5–12 incl., E½;
Sec. 32, S½NW¼, SW¼.
T. 47 N., R. 96 W.,
Sec. 26, lot 9.
T. 47 N., R. 87 W.,
Sec. 7, lots 1, 2, NE¼, E½NW¼;
Sec. 8, lots 1–4 incl., NW¼.
T. 42 N., R. 93 W.,
Sec. 18, NW¼SW¼.
T. 42 N., R. 94 W.,
Sec. 13, SE¼.
T. 50 N., R. 88 W.,
Sec. 20, lot 3, N½SW¼, SE¼SE¼;
Sec. 21, S½SW¼;
Sec. 24, NE¼, E½SW¼, E½SE¼;
Sec. 25, N½, NW¼SW¼.
Sec. 26, lot 1, SE¼NE¼, N½SW¼, SE¼SW¼, N½SE¼;
Sec. 27, lot 1, W½NE¼, NW¼, NE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 28, N½NE¼, NE¼NW¼.
T. 50 N., R. 89 W.,
Sec. 23, S½NE¼, S½NW¼, W½SW¼;
Sec. 24, lots 3, 6, 7, W½NE¼, N½NW¼, SW¼SW¼;
Sec. 26, lots 4;
Sec. 27, lot 1.

The area described contains approximately 77,212.45 acres in Big Horn, Hot Springs, Park and Washakie Counties, Wyoming.

The withdrawals closed the described lands to all forms of appropriation under the public land laws, but not to the mining laws or leasing under the mineral leasing laws. No change in the segregative effect or use of the land is proposed by the continuation.

Comments, suggestions, or objections to the proposed withdrawal continuation must be submitted in writing to the undersigned authorized officer of the Bureau of Land Management on or before March 7, 1984.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a meeting to the undersigned before March 7, 1984. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice will be published in the **federal register** giving the time and place of such meeting. Public meetings are scheduled and conducted in accordance with BLM Manual Section 2351.16B.

The authorized officer of the Bureau of Land Management will make necessary investigations to determine the existing and potential demands for the land and its resources and review the withdrawal rejustification to insure that continuation would be consistent with the statutory objective of the programs for which the lands are dedicated. He will also prepare a report for consideration by the Secretary of the Interior, The President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Paul D. Leonard,

Associate State Director.

[FR Doc. 83-32695 Filed 12-7-83; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30341]

Railroad Operations; Appanoose County Community Railroad, Inc., Exemption; Operation in Appanoose County, Ia

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the operation by the Appanoose County Community Railroad, Inc., of 5.25 miles of railroad between milepost 86.28 and milepost 91.53 at or near Centerville in Appanoose County, IA.

DATES: This exemption is effective on December 6, 1983. Petitions to reopen must be filed by December 28, 1983.

ADDRESS: Send pleadings referring to Finance Docket No. 30341 to:

(1) Rail Section, Room 5349, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Martha Martell, 600 Fifth Avenue Plaza, Des Moines, IA 50309.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTAL INFORMATION: .

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington DC 20423 or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: December 2, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-32670 Filed 12-7-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30310]

Railroad Operations; Ontario Eastern Railroad Corp.; Exemption From 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the

requirements of prior approval under 49 U.S.C. 11343 *et seq.*, the operation by Ontario Eastern Railroad Corporation of a 3.5-mile line of railroad between Bridgeton Junction and Seabrook, NJ, in Cumberland County, NJ, subject to rail employee protective conditions.

DATES: This exemption will be effective on January 9, 1984. Petitions to stay must be filed by December 19, 1983, and petitions for reconsideration must be filed by December 28, 1983.

ADDRESSES: Send pleading referring to Finance Docket No. 30310 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Sergeant W. Wise, 65 Broad Street, Rochester, NY 14614.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, 202–275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: November 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–32872 Filed 12–7–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 100X)]

Rail Services Abandonment; Seaboard System Railroad, Inc.; Putnam County, FL; Exemption

Seaboard System Railroad, Inc. (SSR) has filed a notice of exemption for an abandonment under 49 CFR 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is between milepost AS–699.9 and milepost AS–701 in Palatka, Putnam County, FL, a distance of 1.1 miles.

SSR has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Florida has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on January 9, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by December 19, 1983, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by December 28, 1983, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to SSR's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: December 1, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–32871 Filed 12–7–83; 8:45 am]

BILLING CODE 7035–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Acturial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Acturial Examinations will meet in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW. in Washington, D.C. on January 9, 1984 beginning at 9 a.m.

The meeting agenda includes discussion of the 1984 Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B) and review of the November 1983 Joint Board examinations in order to make recommendations relative thereto, including the minimum acceptable pass score. A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the portions of the meeting dealing with those subjects fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The remainder of the meeting will be open to the public as space is available. The agenda includes consideration of the following topics:

1. A redefinition of the calculators available for use during Joint Board examinations;
2. The concept of open book examinations;
3. Setting pass scores in advance of examinations;
4. Setting the time period during which comments on previous examinations will be considered;
5. Policy on ambiguous questions; and
6. The Examination Program Document for the 1984 Joint Board examinations.

The portion of the meeting that is open to the public will commence at 1:30 p.m., and will continue for as long as necessary to complete the discussion, but not beyond 3:30 p.m. Time permitting, after discussion of the agenda items by Committee members, interested persons may make statements germane to the subjects under consideration. Persons wishing to make oral statements are requested to notify the Committee Management Officer in writing prior to the meeting in order to aid in scheduling the time available, and should submit the written text or, at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any interested person also may file a written statement for consideration by the Joint Board and Advisory Committee by sending it to the Committee Management Officer. Notifications and statements should be mailed no later than December 26, 1983 to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

The proposed restructuring of the examination program was published in the **Federal Register** on March 2, 1983 (48 FR 8877). The adopted restructured program, which will be the basis of the open discussion on January 9, 1984, was announced in a Joint Board news release dated August 2, 1983. The following is a description of the Joint Board restructured examination program which will begin in 1984.

Examinations

1. The pension actuarial examination offered by the Joint Board to meet the pension actuarial knowledge requirement of eligibility for enrollment to perform actuarial services under the Employee Retirement Income Security Act (ERISA) is being redesigned to

cover only pension law and its application to specific problems.

2. The basic actuarial examination offered by the Joint Board to meet the basic actuarial knowledge requirement of eligibility for enrollment is being redesigned to cover a) questions on compound interest and life contingencies and b) questions relating to traditional pension mathematics without regard to ERISA. The basic examination will be extended in length—from four hours to at least five hours. The subject matter will be divided between a compound interest/life contingencies segment and a basic pension mathematics segment. A minimum standard of achievement will be expected for each segment.

It is the Joint Board's intention to offer each examination once a year—the basic examination in the spring and the pension examination in the fall.

Transition Credit

1. For persons credited with one of the Joint Board prior examinations

Appropriate transition credit will be accorded persons who have successfully completed either the Joint Board basic or pension actuarial examination before the commencement of the new examination program. The following transition credit will be applied:

a. A person who has successfully completed the pension actuarial examination before the effective date of the restructured program, i.e. before 1984, will satisfy the basic knowledge requirement of the Joint Board's regulations if he or she passes the compound interest/life contingencies segment of the basic examination. The period for carrying the credit toward the basic examination as restructured will extend for two years from the onset of the program (1984 and 1985).

b. A person who has successfully completed the basic actuarial examination before the effective date of the restructured program, i.e. before 1984, will satisfy the pension knowledge requirement of the Joint Board's regulations if he or she passes the basic pension mathematics segment of the basic examination and the restructured pension examination. The period for carrying the credit toward the basic examination as restructured will extend for two years from the onset of the program (1984 and 1985).

2. For persons without any credit under the prior program

Candidates who are not affected by the transition will be required to sit for both segments of the basic examination and must achieve an overall passing grade in order to satisfy the requirements of the Joint Board regulations.

The examinations will continue to be offered jointly by the Joint Board, the American Society of Pension Actuaries and the Society of Actuaries. The above description of the examinations and transition period reflects the views of the Joint Board after considering proposals and discussions at its Advisory Committee meetings held on November 17, 1982 and June 24, 1983 and comments from the public received as a result of the March 2, 1983 Federal Register announcement. The Joint Board remains open to consider further changes in the restructured program based upon the experience of the transitional period.

Dated: December 5, 1983.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 83-32666 Filed 12-7-83; 8:45 am]

BILLING CODE 4810-25-M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Closed Meeting

A closed meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee (NSTAC) will be held beginning at 9:30 a.m. Wednesday, December 14, 1983. The meeting will be held at the Westgate Building of the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia. The agenda is as follows:

A. Opening Remarks
B. Review of Charges
C. NCM Task Force Briefing
D. NCC Implementation Plan
E. Recommendations/Charges
F. Status of other IES Task Forces
G. Briefing by National Academy of Sciences
H. Telecommunications System Survivability (TSS) Briefing
I. TSS Recommendations/Charges

Any person desiring information about the meeting may telephone (202)692-9274 or write the Manager, National Communications System, 8th Street and South Court House Road, Arlington, Virginia 22204.

Joseph C. Wheeler,

Colonel, USAF, NCS Joint Secretariat.

[FR Doc. 83-32704 Filed 12-7-83; 8:45 am]

BILLING CODE 3610-05-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261-OLA, ASLBP No. 83-484-OLA]

Carolina Power & Light Co. (H. B. Robinson Steam Electric Plant, Unit 2); Hearing

December 2, 1983.

By Application of July 1, 1982, as amended, Carolina Power and Light Company seeks the amendment of the operating license for the H. B. Robinson Steam Electric Plant Unit 2, located in the Town of Hartsville, Darlington County, South Carolina. The proposed amendment would permit repair of the steam generators.

We were appointed on January 5, 1983, to rule on petitions for leave to intervene and requests for hearing and to preside over the proceeding in the event that a hearing were ordered.

Following the filing of petitions to intervene and to hold a hearing and our conducting of a special prehearing conference, by Memorandum and Order of April 12, 1983, we found that the Hartsville Group qualified as a party intervenor and that its contentions 1(a), 1(b), 2, 3 and 8 to be litigable at a hearing.

An evidentiary hearing will be conducted to determine whether to permit the amendment of the operating license. At issue will be the Hartsville Group contentions. The hearing will commence on February 7, 1984, at a location in the vicinity of the facility. The time and place will be fixed by further notice.

Direct testimony of the parties for the evidentiary hearing shall be prefiled and mailed no later than January 20, 1984 by express mail.

Limited appearances pursuant to 10 CFR 2.715(a) will be permitted to be made at the time of the hearing, as scheduled in a further notice. Persons desiring to make a limited appearance are requested to inform the Secretary of the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 2nd day of December, 1983.

It is so Ordered.

For the Atomic Safety and Licensing Board.

Morton B. Margulies, Chairman,

Administrative Law Judge.

[FR Doc. 83-32723 Filed 12-7-83; 8:45 am]

BILLING CODE 7590-01-M

Commonwealth Edison Co. (LaSalle County Nuclear Station, Unit 1); Order Imposing Civil Monetary Penalties

[Docket No. 50-373, License No. NPF-11, EA 83-59]

I

Commonwealth Edison Company (the "licensee") is the holder of Operating License No. NPF-11 issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the LaSalle County Nuclear Station, Unit 1, in accordance with the conditions specified therein. The license was issued on August 13, 1982.

II

A special inspection of the licensee's activities under the license was conducted during the period June 21 through July 1, 1983. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated August 9, 1983. The Notice states the nature of the violations, requirements of the Commission that the licensee had violated, and the amount of civil penalty proposed for each violation. An answer dated September 6, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of Commonwealth Edison Company's response and the statements of fact, explanation, and argument contained therein, as set forth in the Appendix to this order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, It is hereby ordered that:

The licensee pay civil penalties in the amount of Sixty Thousand Dollars ($60,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, a request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section 11 above, and

(b) Whether on the baisis of such violations this Order should be sustained.

Dated at Bethesda, Maryland this 30th of November 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix.—Evaluations and Conclusions

The violations and associated civil penalties are identified in the Notice of Violation and Proposed Imposition of Civil Penalties dated August 9, 1983. The Office of Inspection and Enforcement's evaluation and conclusions regarding the licensee's response dated September 6, 1983 are presented.

In its response, the licensee admits that each violation occurred as described in the Notice of Violation. However, the licensee contends that, after discovery of the event, unusually prompt and extensive corrective actions were taken. Additionally, the licensee contends that NRC made an inaccurate assertion concerning the lack of effective preventive actions taken following prior similar events. The licensee does not believe that the prior events were similar or that the preventive actions were ineffective. NRC evaluation of these contentions is presented below, followed by conclusions regarding the proposed civil penalty.

I. Corrective Actions

A. *Evaluation of Licensee's Corrective Actions*

The General Policy and Procedure for NRC Enforcement Actions, 10 CFR Part 2, Appendix C, Section IV.B.2 (Enforcement Policy), allows civil penalty mitigation for unusually prompt and extensive corrective action. The licensee's corrective actions for this event are described below along the NRC's evaluation of those actions.

1. *Immediate Action Taken by Licensee*

a. Upon discovery of the isolated vacuum breaker, the isolation valve was locked open and all other vacuum breaker isolation valves were checked to be in the correct locked position.

b. An investigation was immediately initiated to determine the cause of the event.

c. The NRC Senior Resident Inspector was notified.

d. A re-verification of flow path "locked closed" valves in accordance with procedure LAP-240-01 was initiated.

NRC Evaluation

These are expected responses for this type of an event. Failure to provide such responses would have provided justification for increasing the civil penalty.

2. *Licensee Action Following Professional Investigation*

An investigation that was commenced immediately to identify the primary causal factors was completed 3 days later, and resulted in the Operating Assistant Superintendent and the Shift Engineers conducting training sessions on the circumstances leading to this event with each crew as it reported on site. Also, prompt action was taken to revise the Equipment Out-of-Service Procedure to correct the deficiency which contributed directly to this event.

NRC Evaluation

Three days is not unusually prompt for completion of such an investigation; however, the action to conduct training sessions is viewed as unusually prompt. The deficiency in the Equipment Out-of-Service Procedure had not been identified by the licensee. It was identified by the NRC as contributing to this event. It was not until six days after the event that the procedure was revised. This is not viewed as unusually prompt.

3. *Licensee Action To Improve Administrative Control of Equipment*

a. *Licensee Action.* The locked valve procedure and unit master startup checklist were revised to clarify valve locking requirements and to require that locked valve checklists be current prior to startup.

NRC Evaluation

These revisions were accomplished two months following the event.

b. *Licensee Action.* A Quality Control Surveillance of the Equipment Out-of-Service Procedure was conducted to identify chronic problems.

NRC Evaluation

The NRC initially identified the procedural weaknesses and implementation errors in this procedure. The licensee's actions are of the type considered to be normal and expected.

c. *Licensee Action.* Locked Valve Position Procedure, LOS–LV–SR1, allows for changing a locked valve position when the operation is not covered by an approved procedure on the Out-of-Service Checklist. A revision was made to limit the use of this procedure, in such circumstances, to occasions when the operator is in continuous attendance.

NRC Evaluation

This procedure was prepared in response to previous NRC concerns on locked valve control. The licensee, in response to the more recent event, determined that it afforded too much leeway when unlocking valves. The licensee's identification and correction of this deficiency is considered a normal response to the more recent event.

d. *Licensee Action.* Plant technical and surveillance procedures were revised to require locking, verification, and documentation of the final position of any locked valves affected by the procedures.

NRC Evaluation

This action, while laudable, took two months to complete, and is therefore not particularly prompt.

e. *Licensee Action.* An outage coordinator position was established to aid in the coordination between operations and maintenance during outages. One of the tasks of the outage coordinator is to interface with the Shift Engineer and the Operating Engineer to ensure necessary mechanical and electrical checklists are completed.

NRC Evaluation

At least one other Commonwealth Edison Company nuclear station has had such a position for at least two years. However, the position was not established at the LaSalle Station until repeated deficiencies in outage control occurred. The NRC does not consider that the delayed establishment of this position at the LaSalle Station warrants mitigation.

f. *Licensee Action.* Classroom training has been scheduled for all operating crews to cover this event, its causes, and its corrective action.

NRC Evaluation

This training is scheduled to occur two to three months after the event, and is therefore not particularly prompt.

B. *Conclusion*

Only one of the licensee's corrective actions is viewed as unusually prompt: onshift training. The remainder appear to have taken an amount of time to complete that is beyond that considered to be unusually prompt. None of the corrective actions is viewed as unusually extensive. Rather, the actions are those necessary to correct identified weaknesses. The licensee has not provided a sufficient basis for mitigation of the civil penalties proposed.

II. Failure To Take Effective Preventive Action Following Earlier Similar Events

The licensee argues that the facts do not support an increase in the amount of the civil penalty for failure on the part of the licensee to take effective preventive action following earlier similar events.

A. *Evaluation of Prior Events*

The Enforcement Policy, 10 CFR Part 2, Appendix C, Section IV.B.4, allows escalation of a civil penalty where effective preventive actions were not implemented following prior notice of similar events. The two prior events at issue are discussed below along with an NRC analysis of the relationship between those events and the event which is set out in the Notice of Violation.

As a result of inspection activities documented in Inspection Report 50–373/83–01, the licensee received a citation for an event in which a Standby Liquid Control System valve which was required to be locked was not properly controlled during performance of an operating procedure. The corrective action taken for this event is documented in a licensee letter dated March 30, 1983 from D. L. Farrar to J. G. Keppler. In that letter, the licensee stated that Standby Liquid Control System procedures were being revised to ensure that those procedures required valves to be restored to their correct position and locked and that system mechanical checklists were being revised to make them consistent with the locked valve checklist. Although a problem in controlling locked valves was identified by this event, no other operating, testing, or surveillance procedures were reviewed to ensure proper control of locked valves. Thus, the licensee's preventive actions regarding potential procedural inadequacies leading to a locked valve being improperly controlled were narrow in scope. As a result, a procedural deficiency regarding control of a locked valve, specifically the vacuum breaker isolation valve, was not identified.

On February 21, 1983, an NRC inspector discovered two normally locked suppression pool vacuum breaker test connection valves unlocked. The licensee was informed and immediately verified that the valves were in their correct position. Locks were placed on the valves. The fact that these valves were required to be locked in Procedure LAP 240–1, yet were unlocked, was viewed as a procedure violation and was an item of noncompliance documented in Inspection Report 50–373/83–05. While reviewing this event, it was discovered that the individual system valve lineup checklist did not require the valves to be locked; however, Administrative Procedure LAP 240–1, "Use of Locked Valves," did require the valves to be locked. Based on this procedural discrepancy, the licensee performed those portions of LAP 240–1 applicable to systems outside the drywell and found seven additional valves which, while required to be locked, were unlocked. All seven valves were in their required positions when found unlocked. Further review revealed that three of the seven valves found unlocked were required to be locked by both LAP 240–1 and their individual system valve lineup checklists. The remaining four valves were required to be locked in LAP 240–1 but not in their individual system checklists. The licensee committed to review and revise system checklists as appropriate to establish consistency with the locked valve checklist. However, broad scope preventive actions were not initiated to analyze locked valve administrative controls for potentially generic programmatic deficiencies.

B. *Conclusion*

Two problems had been discovered in the control of locked valves and equipment lineup prior to this event. The licensee failed to vigorously pursue the issue and broad scope preventive actions were not initiated. The civil

penalty was properly increased based on this consideration.

[FR Doc. 83-32724 Filed 12-7-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on National Bureau of Standards (NBS) Reactor; Meeting

The ACRS Subcommittee on National Bureau of Standards (NBS) Reactor will hold a meeting on December 21, 1983, at the National Bureau of Standards facility, Route 270 on Quince Orchard Road, Gaithersburg, MD. The Subcommittee will review the renewal of the operating license for the NBS reactor at a power level of 20 MW, an increase from 10 MW. Notice of this meeting was published November 29, 1983 (FR 48 53773).

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: Wednesday, December 21, 1983—10:00 a.m. until 2:30 p.m.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the National Bureau of Standards, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., est.

Dated: December 5, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-32722 Filed 12-7-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 2, 1983.

In the matter of applications of the Midwest Stock Exchange, Inc., for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

A. H. Belo & Co.
Common Stock, $1.67 Par Value (File No. 7-7232)
EDO Corporation
Common Stock, $1. Par Value (File No. 7-7234)
Pacific Resources, Inc.
Common Stock, No Par Value (File No. 7-7235)
Ryland Group, Inc.
Common Stock, $1 Par Value (File No. 7-7236)
LaFarge Corporation
Common Stock, $1 Par Value (File No. 7-7238)
British Land of America
Common Stock, $1 Par Value (File No. 7-7240)
AllTel Corporation
Common Stock, No Par Value (File No. 7-7202).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 23, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-32727 Filed 12-7-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 2, 1983.

In the matter of applications of the Philadelphia Stock Exchange, Inc. for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Texaco Canada, Inc.
Common Stock, No Par Value (File No. 7-7241)
U.S. Home Corporation
Common Stock, $.10 Par Value (File No. 7-7242)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 23, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-32728 Filed 12-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20426; File No. SR-Amex-83-31]

Self-Regulatory Organizations, Proposed Rule Change by American Stock Exchange, Inc.; Relating to AUTOPER

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 November 21, 1983, the American Stock Exchange 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 American Stock Exchange has decided to establish as a permanent floor-wide enahancement to the Exchange's Post Execution Reporting (PER) systems the AUTOPER pilot program, which enables specialists to enter PER execution data using touch-screen terminals.

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. 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 the Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* In May 1983, the Exchange began a pilot program called AUTOPER, which has enabled participating specialists in selected issues to enter Post Execution Reporting (PER) system execution data using touch-screen terminals. The pilot, utilizing a total of 12 screens, has been limited to 300 shares market orders.

Under AUTOPER, eligible orders are automatically routed to the specialist for display on the touch-screen. The specialist has the option of executing the trade as principal or agent using the touch-screen, or removing the order from the terminal and executing via standard card input. The specialist may also "stop" the order using the touch-screen. When a "stopped" order is executed the report is entered by card.

The Exchange has now decided to establish the AUTOPER pilot as a permanent floor-wide enhancement of the PER system. AUTOPER will be expanded from its current 12 screens to up to approximately 100 screens (one for each equity specialist). The current limitation to 300 share market orders will be expanded to include marketable limit orders up to 500 shares (the present PER parameters). A marketable limit order will initially be considered to be one for which the limit price is equal or better than the last sale price.

AUTOPER will provide for more efficient and accurate execution and reporting of small routine orders, addressing the need to improve PER processing and turnaround time. Experience during the pilot program indicates that AUTOPER has the potential to nearly eliminate price errors and significantly reduce other errors compared to the existing method of card reporting

(b) *Basis.* The expansion of AUTOPER is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to facilitate transactions in securities and perfect the mechanism of a free and open market. The use of touch-screen technology will afford quicker and more accurate execution and reporting of small routine orders and will thus result in more efficient and effective market operations, consistent with Section 11A(a)(1)(B) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed change will create no burden on competition and in fact will enhance the Exchange's competitive status by providing an efficient, fast and accurate order-handling system.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 30, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-32729 Filed 12-7-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 495]

Commerce in Explosives; List of Explosive Materials

Pursuant to the provisions of Section 841(d) of Title 18, United States Code, and 27 CFR 55.23, the Director, Bureau of Alcohol, Tobacco, and Firearms, must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This Chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive

materials in section 841(c) of Title 18, United States Code.

Accordingly, the following is the 1984 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the **Federal Register** and blasting agents. The list is intended to also include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is *not* all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in Section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated June 24, 1983 (48 FR 29090) and will be effective as of January 1, 1984).

LIST OF EXPLOSIVE MATERIALS

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
Ammonium nitrate explosive mixtures (non cap sensitive).
Aromatic nitro-compound explosive mixtures.
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
ANFO [ammonium nitrate-fuel oil].

B

Baratol.
Baronol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
* Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1, 2, 4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclotrimethylenetrinitramine [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM.
Dipicryl sulfone.
Dipicrylamine.
DNDP [dinitropentano nitrile].
DNPA [2,2-dinitropropyl acrylate].
Dynamite.

E

EDNA.
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitor-substituted alcohols.
EGDN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitro form).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders.

F

Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating sliver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMX [cyclo-1,3,5,7-tetramethylene- 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine (NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol (ethylene glycol dinitrate, EGDN)
Nitroguanidine explosives.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [RDX and plasticizer].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (explosive grade).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid.

T

Tacot [tetranitro-2,3,5,6,-dibenzo-1,3a,4,6a-tetrazapentalene].
TATB [triaminotrinitrobenzene].
TEGDN [triethylene glycol dinitrate].
Tetrazene [tetracene, tetrazine, 1 (5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbozole.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidezer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethyl orthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).

X

Xanthamonas hydrophilic colloid explosive mixture.

FOR FURTHER INFORMATION CONTACT: Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202)–566–7591).

Signed: December 5, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-32720 Filed 12-7-83; 8:45 am]

BILLING CODE 4810-31-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains proposed extensions and a new collection and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–6880.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: December 2, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Medicine and Surgery
2. Prosthetics Authorization and Invoice
3. VA Form 10–2421
4. Recordkeeping Requirement
5. Businesses or other for-profit
6. 400,000 responses
7. 28,000 hours
8. Not applicable

1. Department of Medicine and Surgery
2. Prosthetics Service Card Invoice
3. VA Form 10–2520
4. Recordkeeping Requirement
5. Businesses or other for-profit
6. 40,000 responses
7. 3,200 hours
8. Not applicable

1. Department of Medicine and Surgery
2. Temporary Loan Follow-up Letter
3. VA Form Letter 10–426
4. Recordkeeping Requirement
5. Individuals or households
6. 10,000 responses
7. 200 hours
8. Not applicable

1. Department of Medicine and Surgery
2. Request to Firm for Estimate of Cost for Purchase or Repair of Prosthetic Applicances
3. VA Form Letter 10–90
4. Recordkeeping Requirement
5. Businesses or other for-profit
6. 20,000 responses
7. 1,600 hours
8. Not applicable

Extension

1. Department of Veterans Benefits
2. Certificate as to Securities
3. VA form 27–4709

4. On occasion

5. Individuals or households, State or local governments, Federal agencies or employees, Non-profit institutions
6. 11,035 responses
7. 2,428 hours

8. Not applicable

New Collection

1. Department of Veterans Benefits
2. Student Beneficiary Report (Under the provisions of sec. 156, Public Law 97–377)
3. VA Form 21–8938
4. Annually
5. Individuals or households
6. 15,000 responses
7. 5,000 hours
8. Not applicable

[FR Doc. 83-32868 Filed 12-7-83; 8:45 am]
BILLING CODE 8320-01-M

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92–463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, January 5, 1984
Friday, January 20, 1984
Thursday, February 2, 1984
Thursday, February 16, 1984
Thursday, March 1, 1984
Thursday, March 15, 1984
Thursday, March 29, 1984

The meetings will begin at 2:30 p.m. and will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552 (c) (2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: November 28, 1983.

By direction of Administrator:

Larry R. Moen,

Deputy Director, Office of Public and Consumer Affairs.

[FR Doc. 83-32869 Filed 12-7-83; 8:45 am]
BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 3, 1984, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A–220, 110 Ninth Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Murfreesboro University of Beauty, 113 Easy Main Street, Murfreesboro, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: November 30, 1983.

R. S. Bielak,

Director, VA Regional Office, 110 Ninth Avenue, South Nashville, Tennessee.

[FR Doc. 83-32830 Filed 12-7-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 237
Thursday, December 8, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

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CIVIL AERONAUTICS BOARD

NOTICE OF ADDITION OF ITEM TO THE DECEMBER 1, 1983 MEETING

TIME AND DATE: 10:00 a.m., December 1, 1983.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW, Washington, D.C. 20428.

SUBJECT: 19a. Discussion on Thailand.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-1705-83 Filed 12-5-83; 4:48 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48FR53009.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., December 23, 1983.

CHANGES IN THE MEETING: The meeting is canceled.

[S-1709-83 Filed 12-6-83; 4:00 pm]

BILLING CODE 6351-01-M

3

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO. 1648

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, November 29, 1983, 10:00 a.m.

CHANGES IN MEETING: The closed meeting for Tuesday, November 29, was continued to Thursday, December 1, 1983, in order to complete the agenda.

DATE AND TIME: Tuesday, December 13, 1983, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

DATE AND TIME: Thursday, December 15, 1983, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Election of officers:
  Election of chairman
  Election of Vice Chairman

Certification matters

Notifications of eligibility and certifications to the Secretary of the Treasury for Payments of Presidential Primary Matching Funds to Presidential Candidates:
  Honorable Walter Mondale/Mondale for President Committee, Inc.
  Honorable Alan Cranston/Cranston for President Committee, Inc.
  Honorable Reubin Askew/Askew for President Committee
  Honorable Gary Hart/Americans with Hart, Inc.
  Honorable John Glenn/John Glenn Presidential Committee, Inc.
  Honorable Ernest F. Hollings/Hollings for President, Inc.
Draft advisory Opinion 1983-25: David Ifshin for Mondale Committee
Draft advisory Opinion 1983-38; E. Rogers Pleasants (DuPont Good Government Fund)
Application of 26 U.S.C. 9033(c) and 11 CFR 9033.5(b) and 9033.8(b) to the 1984 Presidential Nominating Process
Proposed Directive 24 (internal procedures related to threshold and non-threshold submissions)
Reclassification for Public Affairs Specialist T.O. No. 142
Classification Administrative Clerk (receptionist)
Reclassification Administrative Clerk T.O. No. 234
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-1708-83 Filed 12-6-83; 8:45 am]

BILLING CODE 6715-01-M

4

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 3:00 p.m., December 15, 1983.

PLACE: Cash Room, Department of the Treasury, 15th & Pennsylvania Avenue, NW., Washington, D.C. 20220.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Discussion of the impact of DIDC activities.

Note.—The meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC Offices at the Department of the Treasury, and copies may be purchased for $5.00 a cassette by calling (202) 566-5152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1060 MT, Washington, D.C. 20220.

For further information about the DIDC and the December 15, 1983 meeting please call (202) 566-3734.

Mark G. Bender,
Executive Secretary.
December 6, 1983.

[S-1707-83 Filed 12-6-83; 2:25 pm]

BILLING CODE 4810-25-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, December 12, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors

requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Steet, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robsinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 5, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1703-83-5-83 Filed 12-5-83; 4:19 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, December 12, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

First Nebraska Savings Company of Papillion, an operating noninsured industrial bank located at 548 South Washington, Papillion, Nebraska.

Application for consent to establish a branch:

SouthTrust Bank of Dale County, Midland City, Alabama, for consent to establish a branch at 940 East Broad Street, Ozark, Alabama.

Applications for consent to establish a remote service facility:

Barnett Bank of St. Lucie County, St. Lucie County (P.O. Port St. Lucie), Florida, for consent to establish a remote service facility near the entrance of Port St. Lucie Hospital, 1800 S.E. Tiffany Avenue, Port St. Lucie, Florida.

Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish a remote service facility at Scott Community College, Belmont Road, Bettendorf, Iowa.

Request for an exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations:

Lanier Bank & Trust Company, Cumming, Georgia.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: Penn Square Bank, National Association, Oklahoma City, Oklahoma

Audit Report re: Summary of Five Liquidation Site Audits (Dated November 9, 1983)

Discussion Agenda: No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corportion, at (202) 389–4425.

Dated: December 5, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1704-83 Filed 12-5-83; 4:19 pm]

BILLING CODE 6714-01-M

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Wednesday, December 14, 1983.

PLACE: Room 532 (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Champion Spark Plugs, Docket No. 9141.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Champion Spark Plugs, Docket No. 9141.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

[S-1706-83 Filed 12-16-83; 1:17 pm]

BILLING CODE 6760-01-M

federal register

Thursday
December 8, 1983

Part II

Environmental Protection Agency

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide, 1982 Model Year Light-Duty Vehicles and Oxides of Nitrogen (NO_x), 1981–1984 Model Year Light-Duty Diesel Vehicles; Summary of Decision and Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2450-4]

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide for 1982 Model Year Light-Duty Vehicles and Oxides of Nitrogen (NO_x) for 1981 through 1984 Model Year Light-Duty Diesel Vehicles; Summary of Decision and Final Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The first of these actions establishes interim oxides of nitrogen (NO_x) emission standards for some 1982, 1983 and 1984 model year light-duty diesel vehicles imported by Revere Classics, Inc. (Revere) for which EPA has granted waivers from standards otherwise applicable under section 202(b)(6)(B) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7521(b)(6)(B). Specifically, the amendment of the NO_x standards applies to the European-version of the Mercedes-Benz 300D, naturally aspirated, which Revere has modified to meet applicable Federal emission standards (except NO_x) and which I have determined qualifies under the statutory criteria for waivers of the NO_x standard for model years 1982, 1983 and 1984. This action has the effect of setting interim NO_x standards at the most stringent level that will permit Revere to market its diesel engine families in model years 1982, 1983 and 1984. The second of these actions makes two corrections to the amended rule previously published at 47 FR 44119 (October 6, 1982). In that notice, EPA inadvertently omitted two engine families from the list of engine families previously granted carbon monoxide (CO) waivers for model year 1982 set forth in 40 CFR 86.082-8(a)(1)(ii).

EFFECTIVE DATE: January 9, 1984.

ADDRESS: Information relevant to this rule, including the accompanying decision document, is contained in Public Docket EN-83-04 at the Central Docket Section of the Environmental Protection Agency, Gallery I, 401 M Street, SW., Washington, D.C. 20460, and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, EPA may charge a reasonable fee for copying services. Interested parties may also obtain the decision document by contacting the Manufacturers Operations Division as indicated below.

FOR FURTHER INFORMATION CONTACT: Mary T. Smith, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2514.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Act requires that light-duty vehicles or engines manufactured during or after the 1981 model year shall be subject to regulations containing standards limiting NO_x emissions from such vehicles or engines to no more than 1.0 grams per vehicle mile (g/mi).

Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory NO_x standard for the 1981 through 1984 model years for any light-duty diesel engine families for which the Adminstrator can make the required statutory finding. I am required to promulgate interim NO_x standards applicable to the subject engine families for those model years for which I have granted waivers.

Revere has submitted a waiver application for its new diesel engine family for model years 1982, 1983 and 1984. My decision to grant the waiver application is based on the statutory criteria and my determinations about the engine families covered by the applications. My reasoning is explained in detail in a decision document which may be obtained as noted above.

In that decision document, I granted waivers covering Revere's modified European-version Mercedes Benz 300D (naturally aspirated) ("R.C. 300") diesel engine families for the 1982, 1983 and 1984 model years. Revere demonstrated, and I concluded, that these waivers are necessary to permit the use of diesel technology because there is a substantial risk that these new engine families would not be able to meet the NO_x emission standard during the waiver period without encountering engine durability and performance problems as well as increased particulate and hydrocarbon emissions.

Moreover, granting these waivers for these engine families will not endanger public health, because there will not be a significant increase in ambient NO_x levels. Revere estimates that at most 1500 vehicles are covered by this waiver. In fact, denying these waivers could result in the production of diesel vehicles emitting more particulate matter. Finally, Revere has demonstrated that these engine families have met the fuel economy and long-term air quality benefit criteria for receiving waivers.

Having decided to grant these waiver applications, I am simultaneously promulgating regulations adopting emission standards prohibiting NO_x emissions from 1982, 1983 and 1984 R.C. 300 vehicles from exceeding 1.5 g/mi. EPA has afforded interested parties an opportunity to comment on the waiver applications and to participate in a public hearing to consider these requests. Comments were received from Mercedes-Benz of North America, Inc. For these reasons, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is unnecessary. *See* 5 U.S.C. 553(b).

Note.—The Office of Management and Budget (OMB) has exempted this action from the requirements of sections 3 and 7 of Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory flexibility analysis. The amended NO_x rule directly affects only Revere and the amended CO rule merely clarifies the list of engine families already granted CO waivers. Hence, pursuant to 5 U.S.C. 605(b), I hereby certify that these rules will not have a significant economic impact on a substantial number of small entities.

These amendments are issued pursuant to sections 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7601(a).

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: December 5, 1983.

William D. Ruckelshaus,

Administrator.

PART 86—[AMENDED]

For the reasons set forth above, Part 86 of 40 CFR is amended as follows:

1. Section 86.082-8(a)(1)(iii) is revised to read as follows:

§ 86.082-8 Emissions standards for 1982 and later model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-

duty diesel vehicles of the following 1982 and later model year engine families shall not exceed the prescribed levels:

Manufacturer and engine family	Model years	Standard (g/mi)
Isuzu Motors Ltd.: 1.8L	1982, 1983, 1984	1.5
Renault: 2.0L	1982, 1983, 1984	1.5
BL Cars, Ltd.:		
2.4L-TC	1983, 1984	1.5
3.6L-TC	1983, 1984	1.5
Chrysler Corp.: 1.9L-NA	1984	1.5
Ford Motor Company:		
2.4L-TC	1984	1.5
TX1	1984	1.5
BMW: 2.4L-TC	1984	1.5
Vehicle Technology, Inc.:		
4-88 HTA	1982, 1983	1.5
4-92 HTA	1982, 1983	1.5
5-92 HTA	1982, 1983	1.5
6-92 HTA	1982, 1983	1.5
Toyo Kogyo Co., Ltd.: TXI	1984	1.5
American Motors Corp.: 1.6L	1984	1.5
Toyota Motor Corp.:		
1.8L-NA	1984	1.5
1.8L-TC	1984	1.5
General Motors Corp.:		
1.8 Liter (L)	1982, 1983, 1984	1.5
4.3L	1982, 1983, 1984	1.5
5.7L	1982, 1983, 1984	1.5
EF-C	1983, 1984	1.5
Daimler-Benz AG:		
2.0L	1984	1.5
2.4L—Naturally aspirated (NA)	1982, 1983, 1984	1.25
3.0L-NA	1982	1.5
3.0L—turbocharge (TC)	1982, 1983, 1984	1.5
AB Volvo:		
2.4L-NA	1982, 1983, 1984	1.5
2.4L-TC	1983, 1984	1.5
Peugeot:		
2.3L-TC-XD2S	1982	1.5
XD2S/XD3S-TC	1983, 1984	1.5
2.3L-NA-XD2C	1982, 1983	1.2
1.9L-NA-XUD9	1983, 1984	1.5
Revere Classics: R.C. 300	1982, 1983, 1984	1.5
Volkswagen AG:		
1.6L-NA-2250 pound inertia weight class l.W.	1982, 1983, 1984	1.3
1.6L-TC-2250 l.W.	1982, 1983, 1984	1.3
1.6L-NA-2500 and 2750 l.W.	1982, 1983, 1984	1.4
1.6L-TC-2500 and 2750 l.W.	1982, 1983, 1984	1.4
2.0L-NA	1982, 1983, 1984	1.5
2.0L-TC	1982, 1983, 1984	1.5
Nissan Motor Company:		
2.8L	1982, 1983	1.5
XM1	1983, 1984	1.5

2. Section 86.082-8(a)(1)(ii) is revised to read as follows:

§ 86.082-8 Emissions standards for 1982 light-duty vehicles.

(a) * * *

(1) * * *

(ii) Carbon monoxide—3.4 grams per vehicle mile (2.11 grams per vehicle kilometer), except that carbon monoxide emissions from light-duty vehicles of the following 1982 model year engine families shall not exceed 7.0 grams per vehicle mile (4.35 grams per vehicle kilometer):

Manufacturer	Engine family
Avanti Motors Corporation	5.0 liter.
American Motors Corporation	151 CID.
	258 CID.
BL Cars, Ltd	215 CID.
	326 CID.
	4.2 liter/fuel injected.
Chrysler Corporation	1.6 liter.
	1.7 liter.
	2.2 liter.
	2.6 liter.
	3.7 liter.
	5.2 liter/2-V.
	5.2 liter/4-V.
Excalibur Motors, Ltd	305 CID.
Ford Motor Company	1.6 liter/2V overhead camshaft.
	2.3 liter.
	2.3 liter/turbocharged.
	3.3 liter.
	3.8 liter/V-6.
	4.2/5.0 liter.
	5.8 liter.
General Motors Corporation	1.6 liter.
	1.8/2.0 liter.
	1.8 liter/fuel injected.
	2.5/liter/throttle body fuel injected.
	2.8 liter/173 CID-2V.
	3.0/3.8 liter/231 CID-2V.
	3.8 liter/turbocharged.
	3.8 liter/229 CID-2V.
	4.1 liter/fuel injected.
	4.4 liter.
	5.0/5.7 liter/fuel injected.
	5.0/5.7 liter.
Lotus Cars, Ltd	2.0 liter.
	2.2 liter.
	2.2 liter/turbocharged.
	4.0 liter.
Subaru of America, Inc	1.6 liter.
	1.8 liter.
Toyota Motor Company, Ltd	88.6 CID.
Volkswagen of America	1.7 liter/feed back carburetor.

* * * * *

(Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7601(a))

[FR Doc. 83-32990 Filed 12-7-83; 8:45 am]

BILLING CODE 6560-50-M

federal register

Thursday
December 8, 1983

Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Reference Methods for Nitrogen Oxide Emissions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2460-7]

Standards of Performance for New Stationary Sources; Reference Methods for Nitrogen Oxide Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is to promulgate "Method 7A, Determination of Nitrogen Oxide Emissions from Stationary Sources—Ion Chromatographic Method," which is to be added to Appendix A of 40 CFR Part 60. This method was proposed in the **Federal Register** on October 7, 1982 (47 FR 44354).

This method may be used as an alternative to promulgated Method 7 and would, at present, apply to fossil-fuel fired steam generators (Subpart D), electric utility steam generating units (Subpart Da), and nitric acid plants (Subpart G). It offers improvements over Method 7 in that the sample analytical time is shortened and precision is improved.

EFFECTIVE DATE: December 8, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Docket. A docket, number A-81-41, containing information considered by EPA in development of the promulgated test method, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

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

SUPPLEMENTARY INFORMATION:

Public Participation

Method 7A was proposed and published in the **Federal Register** on October 7, 1982 (47 FR 44354). The opportunity to request a public hearing was presented to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed test method, but no person desired to make an oral presentation. The public comment period was from October 7, 1982, to December 6, 1982. Eleven comment letters were received concerning issues relative to the proposed test method. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made.

Significant Comments and Changes to the Proposed Test Method

Eleven comment letters were received on the proposed test method. The major comments and responses are summarized in this preamble. Some of the comment letters contained multiple comments. The significant comments and subsequent method changes are listed here.

1. Two commenters thought Section 4.3 was confusing as written. The section describes the sample preparation as well as the sample and standard analysis. It was not clear if the standards were to be diluted as was required by the samples. The confusion was clarified by dividing the section into two parts to separate the sample preparation, that requires the dilution, from the sample and standard analysis, that does not require a dilution.

2. Two commenters were concerned that the range of the analytical standards was too close to the instrument detection limit and that sulfur dioxide in the stack, when added to the sulfate in the absorbing solution, might interfere with the analysis.

Based on the Agency's experimentation, the lowest standard used for calibration is five times the concentration level of the typical detection limit. Samples have been accurately analyzed in this range without complication from excessive baseline noise. The very dilute sulfate concentration in the absorbing solution plus the degree of resolution between the nitrate and sulfate peaks make interference from SO_2 in the stack unlikely.

3. Two commenters voiced a preference to using the eluent solution instead of deionized distilled water in sample, standard, and blank dilutions. This would reduce the size of the negative water peak on the chromatogram and eliminate the possibility of carbon dioxide formation in the column. The option to use eluent solution for dilutions will be allowed.

4. It was pointed out that the calculation used to convert the ion chromatographic results to sample concentration was incorrect because it did not contain an aliquot factor for the amount of sample injected into the chromatograph. This error was corrected by specifying that the calibration curve be plotted as total micrograms versus peak height instead of concentration versus peak height. This change eliminates the need to consider the aliquot factor.

5. Numerous commenters objected to the requirement for a suppressor column for the ion chromatography system since many acceptable systems do not use them. The choice to use other eluent solutions was also requested because some systems differ in this requirement.

The suppressor columns have been listed as optional items to allow the use of acceptable systems not requiring them. Other eluent solutions appropriate to column type will also be allowed.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated rule and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (Section 307(d)(7)(A)).

Miscellaneous

This rulemaking does not impose any additional testing requirements of facilities affected by this rulemaking. Rather, this rulemaking adds an alternative test method associated with emission measurement requirements that would apply irrespective of this rulemaking.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in

costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation was exempt from E.O. 12291.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities because it does not impose additional costs in tests.

This final rulemaking is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil-fuel-fired steam generators.

Dated: December 2, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

§§ 60.45, 60.46, 60.47a, 60.73, 60.74 [Amended]

1. By amending §§ 60.45, 60.46, 60.47a, 60.73, and 60.74 by removing the number "7" and inserting, in its place, "7 or 7A" in the following places:

a. 40 CFR 60.45(c)(1);

b. 40 CFR 60.46 (a)(2), (a)(5), (c), (e), and (f)(3)(i);

c. 40 CFR 60.47a (h)(1), (h)(3), (h)(4), and (h)(5)(i)(1);

d. 40 CFR 60.73(a);

e. 40 CFR 60.74 (a)(1) and (b).

2. By adding a new method to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 7A—Determination of Nitrogen Oxide Emissions From Stationary Sources

Ion Chromatographic Method

1. *Applicability and Principle.*

1.1 Applicability. This method applies to the measurement of nitrogen oxides emitted from stationary sources; it may be used as an alternative to Method 7 (as defined in 40 CFR Part 60.8(b)) to determine compliance if the stack concentration is within the analytical range. The analytical range of the method is from 125 to 1,250 mg NO_x/m^3 as NO_2 (65 to 655 ppm), and higher concentrations may be analyzed by diluting the sample. The lower detection limit is approximately 19 mg/m^3 (10 ppm), but may vary among instruments.

1.2 Principle. A grab sample is collected in an evacuated flask containing a diluted sulfuric acid-hydrogen peroxide absorbing solution. The nitrogen oxides, except nitrous oxide, are oxidized to nitrate and measured by ion chromatography.

2. *Apparatus.*

2.1 Sampling. Same as in Method 7, Section 2.1.

2.2 Sampling Recovery. Same as in Method 7, Section 2.2, except the stirring rod and pH paper are not needed.

2.3 Analysis. For the analysis, the following equipment is needed. Alternative instrumentation and procedures will be allowed provided the calibration precision in Section 5.2 and acceptable audit accuracy can be met.

2.3.1 Volumetric Pipets. Class A; 1-, 2-, 4-, 5-ml (two for the set of standards and one per sample), 6-, 10-, and graduated 5-ml sizes.

2.3.2 Volumetric Flasks. 50-ml (two per sample and one per standard), 200-ml, and 1-liter sizes.

2.3.3 Analytical Balance. To measure to within 0.1 mg.

2.3.4 Ion Chromatograph. The ion chromatograph should have at least the following components:

2.3.4.1 Columns. An anion separation or other column capable of resolving the nitrate ion from sulfate and other species present and a standard anion suppressor column (optional). Suppressor columns are produced as proprietary items; however, one can be produced in the laboratory using the resin available from BioRad Company, 32nd and Griffin Streets, Richmond, California.

2.3.4.2 Pump. Capable of maintaining a steady flow as required by the system.

2.3.4.3 Flow Gauges. Capable of measuring the specified system flow rate.

2.3.4.4 Conductivity Detector.

2.3.4.5 Recorder. Compatible with the output voltage range of the detector.

3. *Reagents.*

Unless otherwise indicated, it is intended that all reagents conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available; otherwise, use the best available grade.

3.1 Sampling. An absorbing solution consisting of sulfuric acid (H_2SO_4) and hydrogen peroxide (H_2O_2) is required for sampling. To prepare the absorbing solution, cautiously add 2.8 ml concentrated H_2SO_4 to a 100-ml flask containing water (same as Section 3.2), and dilute to volume with mixing. Add 10 ml of this solution, along with 6 ml of 3 percent H_2O_2 that has been freshly prepared from 30 percent solution, to a 1-liter flask. Dilute to volume with water and mix well. This absorbing solution should be used within 1 week of its preparation. Do not expose to extreme heat or direct sunlight.

3.2 Sample Recovery. Deionized distilled water that conforms to American Society for Testing and Materials specification D 1193–74, Type 3, is required for sample recovery. At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

3.3 Analysis. For the analysis, the following reagents are required:

3.3.1 Water. Same as in Section 3.2.

3.3.2 Stock Standard Solution, 1 mg NO_2/ml. Dry an adequate amount of sodium nitrate ($NaNO_3$) at 105 to 110°C for a minimum of 2 hours just before preparing the standard solution. Then dissolve exactly 1.847 g of dried $NaNO_3$ in water, and dilute to 1 liter in a volumetric flask. Mix well. This solution is stable for 1 month and should not be used beyond this time.

3.3.3 Working Standard Solution, 25 µg/ml. Dilute 5 ml of the standard solution to 200 ml with water in a volumetric flask, and mix well.

3.3.4 Eluent Solution. Weight 1.018 g of sodium carbonate (Na_2CO_3) and 1.008 g of sodium bicarbonate ($NaHCO_3$), and dissolve in 4 liters of water. This solution is 0.0024 M Na_2CO_3/0.003 M $NaHCO_3$. Other eluents appropriate to the column type and capable of resolving nitrate ion from sulfate and other species present may be used.

3.35 Quality Assurance Audit Samples. Same as required in Method 7.

4. *Procedure.*

4.1 Sampling. Same as in Method 7, Section 4.1.

4.2 Sample Recovery. Same as in Method 7, Section 4.2, except delete the steps on adjusting and checking the pH of the sample. Do not store the samples more than 4 days between collection and analysis.

4.3 Sample Preparation. Note the level of the liquid in the container and confirm whether any sample was lost during shipment; note this on the analytical data sheet. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Immediately before analysis, transfer the contents of the shipping container to a 50-ml volumetric flask, and rinse the container twice with 5-ml portions of water. Add the rinse water to the flask, and dilute to the mark with water. Mix thoroughly.

Pipet a 5-ml aliquot of the sample into a 50-ml volumetric flask, and dilute to the mark with water. Mix thoroughly. For each set of determinations, prepare a reagent blank by diluting 5 ml of absorbing solution to 50 ml with water. (Alternatively, eluent solution may be used in all sample, standard, and blank dilutions.)

4.4 Analysis. Prepare a standard calibration curve according to Section 5.2. Analyze the set of standards followed by the set of samples using the same injection volume for both standards and samples.

Repeat this analysis sequence followed by a final analysis of the standard set. Average the results. The two sample values must agree within 5 percent of their mean for the anlaysis to be valid. Perform this duplicate analysis sequence on the same day. Dilute any sample and the blank with equal volumes of water if the concentration exceeds that of the highest standard.

Document each sample chromatogram by listing the following analytical parameters: injection point, injection volume, nitrate and sulfate retention times, flow rate, detector sensitivity setting, and recorder chart speed.

4.5 Audit Analysis. Same as required in Method 7.

5. *Calibration.*

5.1 Flask Volume. Same as in Method 7, Section 5.1.

5.2 Standard Calibration Curve. Prepare a series of five standards by adding 1.0, 2.0, 4.0, 6.0, and 10.0 ml of working standard solution (25 μg/ml) to a series of five 50-ml volumetric flasks. (The standard masses will equal 25, 50, 100, 150, and 250 μg.) Dilute each flask to volume with water, and mix well. Analyze with the samples as described in Section 4.4 and subtract the blank from each value. Prepare or calculate a linear regression plot to the standard masses in μg (x-axis) versus their peak height responses in millimeters (y-axis). (Take peak height measurements with symmetrical peaks; in all other cases, calculate peak areas.) From this curve, or equation, determine the slope, and calculate its reciprocal to denote as the calibration factor, S. If any point deviates from the line by more than 7 percent of the concentration at that point, remake and reanalyze that standard. This deviation can be determined by multiplying S times the peak height response for each standard. The resultant concentrations must not differ by more than 7 percent from each known standard mass (i.e., 25, 50, 100, 150, and 250 μg).

5.3 Conductivity Detector. Calibrate according to manufacturer's specifications prior to initial use.

5.4 Barometer. Calibrate against a mercury barometer.

5.5 Temperature Gauge. Calibrate dial thermometers against mercury-in-glass thermometers.

5.6 Vacuum Gauge. Calibrate mechanical gauges, if used, against a mercury manometer such as that specified in Section 2.1.6 of Method 7.

5.7 Analytical Balance. Calibrate against standard weights.

6. *Calculations.*

Carry out the calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after final calculations.

6.1 Sample Volume. Calculate the sample volume V_{sc} (in ml) on a dry basis, corrected to standard conditions, using Equation 7-2 of Method 7.

6.2 Sample Concentration of NO_x as NO_2. Calculate the sample concentration C (in mg/dscm) as follows:

$$C = \frac{HSF \times 10^4}{V_{sc}} \qquad \text{Eq. 7A-1}$$

Where:

H = Sample peak height, mm

S = Calibration factor, μg/mm

F = Dilution factor (required only if sample dilution was needed to reduce the concentration into the range of calibration)

10^4 = 1:10 dilution times conversion factor of

$$\frac{mg}{10^3\ \mu g} \times \frac{10^6\ ml}{m^3}$$

If desired, the concentration of NO_2 may be calculated as ppm NO_2 at standard conditions as follows:

$$ppm\ NO_2 = 0.5228\ C \qquad \text{Eq. 7A-2}$$

Where:

0.5228 = ml/mg NO_2.

7. *Bibliography.*

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(Secs. 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

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Thursday
December 8, 1983

Part IV

Environmental Protection Agency

Polychlorinated Biphenyls (PCBs); Exclusions, Exemptions and Use Authorizations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62032; TSH-FRL 2456-6]

Polychlorinated Biphenyls (PCBs); Exclusions, Exemptions and Use Authorizations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), generally prohibits the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs). EPA issued a final rule published in the **Federal Register** of October 21, 1982 (47 FR 46980), excluding PCBs generated in closed and controlled waste manufacturing processes from the TSCA prohibitions. This notice proposes to amend the October 21, 1982 rule by excluding additional processes from regulation, based on EPA's determination that PCBs generated in these processes do not present an unreasonable risk of injury to health or the environment. In addition, this notice announces EPA's deferral of action on 50 exemption petitions to manufacture, process, and distribute PCBs in commerce and proposes a regulation to authorize the use of PCBs in heat transfer and hydraulic systems at concentrations of less than 50 parts per million (ppm).

DATES: Two days of informal hearings on this proposed rule, if requested will be held on February 21 and 22, 1984, at EPA headquarters in Washington, D.C. On February 21, 1984, the hearing will address the amendment to the Closed and Controlled Waste Manufacturing Processes Rule. On February 22, 1984, the hearing will address exemptions and the use authorization for PCBs in heat transfer and hydraulic systems. The exact times and locations of the hearings will be available by calling EPA's TSCA Assistance Office. Comments on this proposed rule and requests to participate in the informal hearings must be submitted by February 6, 1984. Reply comments made in response to issues raised at the hearings must be submitted no later than one week after the close of the hearings.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, D.C. 20460.

Comments should include the docket number OPTS-62032. Comments received on this proposed rule will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. COMMENTS AND RULEMAKING PROCEDURES

EPA encourages commenters to submit nonconfidential information. However, commenters who believe that they can state their position only by using confidential information may submit it to the Agency marked "CONFIDENTIAL." Please send confidential information via certified mail to the Document Control Officer (see address listed under "**ADDRESS**"). Information marked "CONFIDENTIAL" will not be disclosed except in accordance with the procedures set forth in 40 CFR Part 2. Information not marked "CONFIDENTIAL" will be placed in the public record and may be publicly disclosed by EPA without prior notice. Whenever confidential information is submitted, it must be accompanied by a nonconfidential summary of the information claimed to be confidential for inclusion in the public record.

EPA will conduct all hearings in accordance with EPA's "Procedures for Conducting Rulemaking under Section 6 of the Toxic Substances Control Act" (40 CFR Part 750). Commenters who want to participate in the informal hearings must write to EPA 's TSCA Assistance Office (see address listed under "**FOR FURTHER INFORMATION CONTACT**") and indicate that they want to participate. The informal hearings are meant to provide an opportunity for commenters to present additional information or to discuss new issues, not to repeat information already presented in written comments.

II. OVERVIEW OF THIS NOTICE OF PROPOSED RULEMAKING

Section 6(e) of TSCA generally prohibits the manufacture, processing, distribution in commerce, and use of PCBs. In the **Federal Register** of May 31, 1979 (44 FR 31514), EPA issued a regulation that implemented section 6(e). (This rule is hereafter referred to as the PCB Ban Rule.) Among other things, the PCB Ban Rule generally excluded from regulation materials containing PCBs in concentrations of less than 50 ppm. The Environmental Defense Fund (EDF) successfully challenged this 50 ppm cutoff in *EDF* v. *EPA*, 636 F.2d 1267 (D.C. Cir. 1980). As a result of this remanded concentration limit, EPA is proposing three actions on PCBs. These actions are: (1) An amendment of the October 21, 1982 Closed and Controlled Waste Manufacturing Processes Rule; (2) deferral of action on 50 exemption petitions to manufacture, process, and distribute in commerce inadvertently generated PCBs; and (3) a use authorization for PCBs in hydraulic and heat transfer fluid. Units III, IV, and V, respectively, discuss these actions in detail.

III. PROPOSED AMENDMENT TO THE CLOSED AND CONTROLLED WASTE MANUFACTURING PROCESSES RULE

A. Background

Section 6(e) of TSCA generally prohibits the manufacture, processing, distribution in commerce, and use of PCBs. Section 6(e)(3)(B) of TSCA provides that any person may petition EPA for one-year exemptions from the prohibitions on manufacture, processing, and distribution in commerce of PCBs. EPA may grant such petitions, by rule, if the following two conditions are satisfied: (1) The exemption, if granted, would not present an unreasonable risk of injury to health or the environment; and (2) good faith efforts have been made to develop a PCB substitute which does not present an unreasonable risk of injury. In addition, section 6(e)(2) of TSCA permits EPA to exempt from the PCB ban totally enclosed uses of PCBs and authorizes EPA to allow continuation of non-totally enclosed uses of PCBs if the uses will not present an unreasonable risk of injury to health or the environment.

EPA issued the PCB Ban Rule to implement the prohibitions of section 6(e) of TSCA. Among other provisions, that rule: (1) Generally excluded from regulation materials containing PCBs in concentrations of less than 50 ppm; (2) designated all intact, non-leaking capacitors, electromagnets, and transformers (other than railroad transformers) as "totally enclosed," and permitted their use without specific conditions; and (3) authorized 11 non-totally enclosed uses of PCBs, based on

the finding that they did not present unreasonable risks.

EDF obtained judicial review of the PCB Ban Rule in the U.S. Court of Appeals for the District of Columbia Circuit in *EDF* v. *EPA*. On October 30, 1980, the court invalidated the regulatory exclusion of PCBs in concentrations of less than 50 ppm and EPA's determination that the use of PCBs in electrical equipment was "totally enclosed." The court upheld the 11 use authorizations. The court remanded the rule to EPA for further action consistent with its opinion.

The issuance of the court's mandate without a stay would have adversely affected many industries throughout the United States, including both the electrical utility industry and certain segments of the chemical industry whose processes inadvertently generate PCBs as impurities of byproducts in concentrations below 50 ppm. Accordingly, on January 21, 1981, EPA, EDF, and certain industry intervenors in *EDF* v. *EPA* filed a joint motion with the court. The motion asked for a stay of the court's mandate setting aside the classification of transformers, capacitors, and electromagnets as totally enclosed. During the period of the stay, EPA agreed to conduct a rulemaking on the use of PCBs in electrical equipment beginning with an Advanced Notice of Proposed Rulemaking (ANPR). On February 12, 1981, the court granted this joint motion.

EPA subsequently addressed the use of certain electrical equipment containing PCBs in a rule, which was published in the **Federal Register** of August 25, 1982 (47 FR 37342). (This rule will hereafter be referred to as the Electrical Equipment Rule.) Among other things, that rule authorizes for the remainder of their useful lives: (1) PCB-Transformers not posing an exposure risk to food or feed; (2) large PCB capacitors that are located in restricted-access electrical substations; (3) large PCB capacitors that are located in contained and restricted-access indoor installations; and (4) all PCB-containing, mineral oil-filled electrical equipment. The use of PCB-Transformers that pose an exposure risk to food or feed is prohibited after October 1, 1985. The use of large PCB capacitors that are not located in restricted-access areas is prohibited after October 1, 1988. The rule requires weekly, quarterly, or annual inspection of authorized electrical equipment (other than mineral oil equipment) for leaks of dielectric fluid, depending on the location of the equipment and other factors.

The genesis of today's proposed rule was another joint motion filed by the Chemical Manufacturers Association (CMA), EDF and other industry intervenors in *EDF* v. *EPA* on February 20, 1981. That motion sought a stay of the court's mandate overturning the 50 ppm cutoff established in the PCB Ban Rule. This motion also proposed that during the period of the stay: (1) EPA would conduct new rulemaking with respect to PCBs generated in low concentrations; and (2) industry groups would initiate studies to provide new information for that rulemaking. A brief history of the events subsequent to the February 20, 1981 motion will explain how EPA arrived at today's proposed rule.

Throughout the discussions leading to this joint motion, chemical industry representatives argued that some of their manufacturing processes inadvertently generate PCBs that present virtually no health or environmental risk because of limited PCB exposure potential. Industry representatives stated that some processes that generate PCBs as byproducts are designed and operated so that no releases of PCBs occur or that the PCBs formed in the processes are disposed of in accordance with the PCB disposal regulations in 40 CFR 761.60. These processes were referred to as "closed manufacturing processes" and "controlled waste manufacturing processes" respectively. The joint motion proposed that EPA issue an ANPR to exclude these closed and controlled waste manufacturing processes from the prohibitions of section 6(e)(3)(A) of TSCA.

In addition to addressing the closed and controlled waste manufacturing processes, the February 20, 1981 joint motion also proposed the publication of an ANPR requesting information on all other manufacturing, processing, distribution in commerce, and use of PCBs in low concentrations. PCBs generated in and released from other than closed or controlled waste manufacturing processes are hereafter referred to as "uncontrolled PCBs" or "inadvertently generated PCBs." These PCBs are the principal subject of this rulemaking.

On April 13, 1981, the court entered an order in response to the February 20, 1981 joint motion. That order stayed the issuance of the court's mandate with respect to activities involving PCBs in concentrations of less than 50 ppm. Thus, the 50 ppm regulatory limit established in the PCB Ban Rule remains in effect for the duration of the stay, and persons who manufacture, process, distribute in commerce, and use PCBs in concentrations of less than 50 ppm may continue these activities during the stay. The court order required EPA to: (1) Issue ANPRs covering PCBs in concentrations of less than 50 ppm; (2) promulgate a final rule within 18 months of the date of the order (i.e., by October 13, 1982) to exclude generation of PCBs in closed and controlled waste manufacturing processes from the prohibitions of section 6(e)(3)(A) of TSCA; and (3) advise the court within 11 months of the date of the order (i.e., by March 13, 1982) of EPA's plans and schedule for further action on PCBs generated as uncontrolled PCBs in concentrations of less than 50 ppm.

EPA issued two ANPRs on the 50 ppm regulatory limit which were published in the **Federal Register** of May 20, 1981 (46 FR 17617 and 46 FR 17619). The ANPRs established two separate rulemaking proceedings with respect to PCB in concentrations of less than 50 ppm. The first ANPR announced rulemaking activities on PCBs generated in closed and controlled waste manufacturing processes. The second ANPR announced the rulemaking activities for uncontrolled PCBs. In these ANPRs, EPA stated that it needed to develop a substantial factual record to support these PCB rulemakings.

Approximately 50 public comments were submitted in response to these ANPRS. Most of the comments were submitted by companies that were inadvertently generating PCBs in the manufacture of other chemicals. The most extensive comment was a survey filed by the CMA, a trade association whose membership includes many of the nation's principal chemical manufacturers.

In accordance with the April 13, 1981 court order, on March 11, 1982, EPA submitted a report to the court that set forth EPA's plans for further regulation of uncontrolled PCBs. Since the number of processes generating uncontrolled PCBs is related to the number of closed and controlled waste manufacturing processes, EPA requested that the court allow EPA to report on its further plans for regulation of uncontrolled PCBs following the completion of the Closed and Controlled Waste Manufacturing Processes Rule. EPA also requested that the court extend its stay of mandate until December 1, 1982, to allow EPA time to develop detailed plans for regulating uncontrolled PCBs after issues in the Closed and Controlled Waste Manufacturing Processes Rule were resolved. On April 9, 1982, the court issued an order granting EPA's request.

The Closed and Controlled Waste Manufacturing Processes Rule was published in the **Federal Register** of

October 21, 1982 (47 FR 46980). That rule provides an exclusion from the general ban on the manufacture, processing and distribution in commerce of PCBs for closed and controlled waste manufacturing processes. Closed manufacturing processes are processes that generate PCBs but release PCBs in concentrations below the practical limits of quantitation for PCBs in specific media. These limits are 10 micrograms per cubic meter (roughly 0.01 ppm) per resolvable gas chromatographic peak in air emissions, 100 micrograms per liter (roughly 0.1 ppm) per resolvable gas chromatographic peak in water effluent, and 2 micrograms per gram (2 ppm) per resolvabe gas chromatographic peak in products and water streams. Controlled waste manufacturing processes are processes that are defined using the above limits, but the waste stream may contain greater than 2 ppm PCBs as long as these wastes are disposed of properly. According to the rule, wastes with a concentration of 50 ppm or greater PCBs must be disposed of in accordance with the PCB disposal regulations in 40 CFR 761.60. Wastes with a PCB concentration of less than 50 ppm may either be disposed of according to 40 CFR Part 761 or at facilities approved under the provisions of section 3005(c) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C 6925(c).

After issuing the final Closed and Controlled Waste Manufacturing Processes Rule, EPA in accordance with the April 9, 1982 court order submitted to the court a plan for regulating uncontrolled PCBs. EPA stated that it intended to propose a rule by December 1, 1983 and to issue a final rule for uncontrolled PCBs, by July 1, 1984. EPA also requested an extension of the court's stay of mandate until October 1, 1984. In response to this request, the court on December 17, 1982 stayed the mandate until further order. In addition, the court ordered EPA to submit a progress report on March 31, 1983 and quarterly thereafter. In accordance with this December 17, 1982 order, EPA submitted progress reports at the end of March, June, and September 1983.

On April 13, 1983, CMA, EDF, and the Natural Resources Defense Council (NRDC) presented a document to EPA entitled "Recommendation of the Parties for a Final EPA Rule on Inadvertent Generation of PCBs." This document represents a consensus proposal of CMA, EDF, and NRDC and was the culmination of an independent negotiation effort between those parties that began in mid-1982.

The consensus proposal was designed to allow the manufacture of chemicals in processes that inadvertently generate PCBs if certain conditions are met. The five basic conditions of the consensus proposal that must be met in order to qualify for the proposed exclusion from the TSCA section 6(e)(3)(A) prohibitions are:

(1) Concentration of inadvertently generated PCBs in products are to be limited to a 25 ppm average per year and a maximum of 50 ppm at any given time;

(2) Concentrations of inadvertently generated PCBs at the point where such PCBs are vented to the ambient air are to be less than 10 ppm;

(3) Concentrations of inadvertently generated PCBs discharged from manufacturing sites to water are to be less than 0.1 ppm for any resolvable gas chromatographic peak;

(4) Quantitation of PCBs is to be calculated after discounting the concentration of monochlorinated and dichlorinated biphenyls by factors of 50 and 5, respectively; and

(5) Various certification, reporting, and record maintenance requirements must be met to qualify for this exclusion from the general ban on manufacture, processing, distribution in commerce, and use of PCBs.

Further, the consensus proposal provides for an "upset provision." This provision would establish procedures for dealing with higher levels of release of PCBs than would be allowed by the rule, provided that such releases are due to factors beyond the control of the operator.

CMA, EDF, and NRDC also concluded that none of the subsections of section 6(e) of TSCA provides the specific framework for any regulation of uncontrolled PCBs less than total prohibition (other than the filing of annual exemptions). However, read together the various subsections demonstrate congressional intent, as found by the Court of Appeals, that practical regulatory alternatives to a total ban are proper if no unreasonable risks of injury are presented.

In addition to the consensus proposal and other comments received on inadvertently generated PCBs, EPA received information on recycled PCBs. Recycled PCBs, are PCBs that were intentionally generated in the past and enter newly manufactured products as PCB-contaminated raw materials. The American Paper Institute (API) and the Asphalt Roofing Manufacturers Association (ARMA) have submitted information to EPA on recycled PCBs in their industries. Inquires to EPA about recycled PCBs have also been made by firms that salvage automobiles and waste oils that are contaminated with PCBs in concentrations of less than 50 ppm. The number of firms engaged in these activities could possibly number in the thousands. EPA has decided to included recycled PCBs in this rulemaking.

Based on the data analyses EPA had completed when it received the consensus proposal, the Agency determained that it was appropriate to use the consensus proposal as a framework for this proposed rule. In a letter to CMA, EDF, and NRDC dated June 3, 1983, EPA stated that it would use the consensus proposal as a framework for regulation, although it intended to make modifications and additions to that framework. Specifically, EPA stated that the proposed rule: (1) Would include PCBs generated in the past that continue to be incorporated into new products (recycled PCBs); (2) would consider concentration limits lower than 25 ppm for higher risk products; and (3) would not include an upset provision. EPA rejected the upset provision because the Agency concluded that plant upsets could result in high level releases of PCBs in air, water, or products that could cause injury to health or the environment. Such releases should not be excluded from regulation.

B. Overview of the Proposed Amendment

This proposed amendment will offer regulatory relief for those instances of manufacture, processing, distribution in commerce and use of inadvertently generated and recycled PCBs that do not present an unreasonable risk of injury to health or the environment. To achieve this end, EPA is proposing an amendment to the Closed and Controlled Waste Manufacturing Processes Rule that will exclude inadvertently generated and recycled PCBs in certain situations, described below, from the prohibitions of section 6(e) of TSCA.

EPA has considered several approaches to provide regulatory relief from the prohibitions of section 6(e) for PCBs at very low levels that do not present unreasonable riskes to public health. The exemption process of section 6(e)(3)(B) provides one alternative. However, under 6(e)(3)(B), exemption petitions would be required each year for the manufacture, processing, and distribution in commerce of all inadvertently generated and recycled PCBs. This approach would require annual rulemaking on each petition and would be extremely

resource-intensive for the industries that must file annually for exemptions, as well as for EPA. The burden of the exemption process would not be outweighed by the public health benefits obtained from regulating small amounts of PCBs.

Another regulatory strategy EPA considered was to develop regulatory limits on concentration levels for each chemical process in which uncontrolled PCBs are generated. This chemical-by-chemical approach would have relied on individual exposure assessments for the various uses of each chemical that contained or that might contain inadvertently generated PCBs. This chemical-by-chemical approach would have been extremely resource-intensive. In addition, chemical-specific standards would need revision as new processes are discovered that inadvertently generate PCBs.

Prior to receipt of the consensus proposal, EPA considered and proceeded with a regulatory strategy based on a small number of hypothetical worst-case exposure scenarios that were developed to represent a whole group or class of similar exposure situations. These scenarios that assess the exposure to a group of exposure situations, rather than individual situations are referred to as generic exposure assessments. The risks of cancer and reproductive/developmental effects can be estimated from these generic exposure assessments. These estimates of risk would then be used in developing generic exclusions, if warranted, based on a determination that particular classes of processes generating PCBs at low levels would not present unreasonable risks. The generic exposure assessment approach is less resource-intensive than the chemical-specific approach; however, it is protective of human health and the environment. A description of the generic exposure assessment appears in Unit III.D of this preamble.

The regulatory strategy initially pursued by EPA, based on generic exclusions, is more detailed and specific than the consensus approach which sets a simple regulatory limit. EPA has adopted the generic exclusion approach in developing this rulemaking; however, EPA's approach supports the regulatory framework submitted by CMA, EDF, and NRDC in the consensus proposal.

The document entitled "Recommendation of CMA, EDF, and NRDC for a Final EPA Rule on Inadvertent Generation of PCBs" uses the Closed and Controlled Waste Manufacturing Processes Rule as a framework. Thus, in using the consensus proposal to develop this proposed rule, EPA has also used the Closed and Controlled Waste Manufacturing Processes Rule as a framework. Furthermore, the PCB analytical chemistry methodology developed to determine PCB concentration under that rule serves this proposed rule. Basic concepts developed in that rule, have been retained in this proposed rule, such as the provision allowing manufacturers to conduct theoretical assessments in lieu of actual monitoring to determine PCB levels in releases.

In both the Closed and Controlled Waste Manufacturing Processes Rule and this proposed rule, PCB concentration limits are established for products, air emissions, water effluents, and wastes. The Closed and Controlled Waste Manufacturing Processes Rule sets the limits for PCBs in products, air emissions and water effluents at the limit of quantitation (LOQ) and controls disposal of waste containing PCBs above the LOQ. These exclusions from the prohibitions of section 6(e) of TSCA were based on EPA's determination that risk would be *de minimis*, because there would be no measurable gain in protection of the environment or public health by attempting to regulate PCBs at levels that are nonquantifiable for all practical purposes. This environmentally conservative approach was taken because data were not available at that time to determine if higher limit levels were appropriate. In today's proposed rule the limits are established based on EPA's determination that the activities excluded will not present an unreasonable risk of injury to human health or the environment.

CMA, EDF, and NRDC stated in the consensus proposal that regulating inadvertently generated PCBs presents difficult problems for both the regulated industries and EPA, because Congress did not deal specifically with inadvertently generated PCBs in section 6(e) of TSCA. The only apparent alternatives to the outright ban of these uncontrolled PCBs are: (1) The annual exemption process included in section 6(e)(3)(B) of TSCA, which addresses manufacture, processing, and distribution in commerce; and (2) section 6(e)(2)(B) of TSCA which authorizes the use of PCBs in other than a totally enclosed manner. Both of these provisions use the concept of an unreasonable risk of injury to health or the environment to determine if relief from the section 6(e) prohibition is appropriate.

CMA, EDF, and NRDC also pointed out that inadvertent generation activities involve the manufacture, processing, and use of PCBs. Indeed, previously generated PCBs (recycled PCBs) could be considered to be "used" within the context of section 6(e)(2) of TSCA.

Although CMA, EDF, and NRDC have different views on the toxicology of PCBs, they believe that their recommendation would assure an absence of unreasonable risk of injury to health or the environment. According to the consensus proposal, CMA, EDF and NRDC determined that it was not necessary to discuss the toxicology of PCBs in order to determine that there would not be an unreasonable risk.

EPA has considered the consensus proposal in terms of the required findings of sections 6(a) and 6(e) of TSCA and has decided to adopt an unreasonable risk test to support this proposed rule. By adopting this approach, EPA believes, as do CMA, EDF, and NRDC, that the Agency is consistent with congressional intent and is reasonably regulating inadvertently generated and recycled PCBs.

After the Closed and Controlled Waste Manufacturing Processes rule was published, EPA completed quantitative risk assessments for PCBs. Based on the risk assessment for carcinogenicity as well as information on reproductive/developmental effects, environmental effects, and costs, EPA has determined that the manufacture, processing, distribution in commerce, and use of PCBs below the limits proposed in the consensus proposal would not present an unreasonable risk of injury to human health or the environment. EPA is therefore proposing to exclude these activities from the prohibitions of section 6(e) of TSCA. For further information, see the following documents that have been included in the Official Rulemaking Record: "Quantitative Risk Assessment of Reproductive Risks Associated with PCB Exposure;" "Summary and Update of Carcinogenic Risk Assessments of Polychlorinated Biphenyls;" "Environmental Hazards and Risk Assessments for Various Isomers of Polycholorinated Biphenyls (Monochlorobiphenyl through Hexachlorobiphenyl and Decachlorobiphenyl);" and "Regulatory Impact Analysis of the Proposed Rule Regulating Inadvertent PCB Generation from Uncontrolled Sources."

Based on the risk assessments conducted by EPA and the consensus proposal, the Agency is proposing to exclude from the prohibitions of section 6(e) of TSCA those activities (including manufacture, processing, distribution in commerce, and use) that meet the criteria outlined below:

(1) PCB concentrations in the components of certain consumer products with a high potential for exposure are limited to less than 5 ppm. These consumer products are deodorant bars and soaps, and plastic building materials and products.

(2) PCB concentrations present in all products not named in item (1) above are limited to an annual average of 25 ppm with a 50 ppm maximum.

(3) PCB concentrations at the point where such PCBs are manufactured or processed and are vented to the ambient air are limited to less than 10 ppm.

(4) PCB concentrations discharged from manufacturing or processing sites to water are limited to less than 0.1 ppm for any resolvable gas chromatographic peak.

(5) All process wastes containing PCBs at 50 ppm or greater PCBs are to be disposed of in accordance with the PCB disposal requirements of 40 CFR 761.60.

(6) Quantitation of PCBs to meet the criteria in items (1) through (5) is to be calculated after discounting the concentration of monochlorinated biphenyls by a factor of 50 and dichlorinated biphenyls by a factor of 5.

(7) The certification, reporting, and record maintenance requirements are met.

EPA's proposal to exclude the above activities from the prohibitions of section 6(e) of TSCA requires an amendment to the definitions in the Closed and Controlled Waste Manufacturing Processes Rule. EPA is proposing to delete the definitions of "closed manufacturing processes" and "controlled waste manufacturing processes" in that rule. In place of these definitions, EPA is proposing a new definition—"excluded manufacturing process," which expands exclusions established by the previous definitions. These exclusions are based on a finding that the products and wastes excluded will not present an unreasonable risk of injury to health or the environment.

In addition, EPA is proposing to establish limits for "recycled PCBs." Recycled PCBs are PCBs that were generated in the past and may enter a manufacturing process as PCB-contaminated raw materials. In general, these are intentionally generated PCBs (i.e. Aroclor) that are found at low concentration. EPA has evaluated the risk of exposure to recycled PCBs and concludes that these risks are substantially similar to those risks for the inadvertently generated PCBs. Therefore, EPA has included recycled PCBs in the exclusions provided by today's proposed rule. However, in quantifying recycled PCBs, the discounting factors for monochlorinated and dichlorinated biphenyls may not be used. This is consistent with the methods used in quantifying other intentionally generated PCBs.

For the purposes of this rulemaking, EPA has set the water effluent regulatory limit at 0.1 ppm per resolvable gas chromatographic peak, which represents the level of quantitation. This is the LOQ set in the Closed and Controlled Waste Manufacturing Processes Rule. In that rule, EPA concluded that for all practical purposes, it would be impossible to determine whether regulation of PCB concentrations below the practical LOQ had any effect on actually reducing releases of PCBs. EPA reaffirms this conclusion.

EPA is proposing the air emission limit of 10 ppm recommended in the consensus proposal. This recommendation is based on the expectation that the concentration at the fenceline of the facility will be at the LOQ.

EPA proposes that companies may conduct actual monitoring or a theoretical assessment of potential PCB concentration levels in products, air emissions, and water effluents. EPA intends to enforce this rule with actual monitoring of PCB levels, using the analytical and sampling methodology outlined in Unit III.I of this preamble.

C. Summary of Available Data

In developing this proposed rule, EPA has considered many sources of information. EPA considered the comments received in response to the ANPR for uncontrolled PCBs, which was published in the **Federal Register** of May 20, 1981 (46 FR 27619). EPA also considered the data submitted by CMA in a document entitled "A Report of a Survey on the Incidental Manufacturing, Processing, Distribution, and Use of Polychlorinated Biphenyls at Concentrations below 50 ppm." EPA also considered the information submitted in relevant PCB exemption petitions. This information has been incorporated into the exposure analysis for this proposed rule.

After reviewing the information submitted, EPA attempted to identify the chemical processes that could inadvertently generate PCBs. EPA initially developed a list of approximately 200 chemical processes with a potential for generating PCBs. (See support document entitled "Summary of Organic Chemical Product Classes Potentially Containing Inadvertently Generated PCBs.") These chemicals were then ranked as high, moderate, or low with respect to their potential to generate PCBs. (See support document entitled "Organic Chemical Processes Leading to Generation of Incidental Polychlorinated Biphenyls.") Seventy chemical processes were determined to have a high potential for PCB generation. EPA focused on this group of 70 chemical processes in developing its generic exposure assessments to support this proposed rule. These 70 chemical processes are listed below:

- Allyl Alcohol
- Allyl Amines
- Aluminum Chloride
- Aminoethylethanolamine
- Benzene Phosphorus Dichloride
- Benzophenone
- Benzotrichloride
- Benzoyl Peroxide
- Carbon Tetrabromide
- Carbon Tetrafluoride
- Chlorendic Acid/Anhydride Esters
- Chlorinated Acetophenones
- Chlorinated Benzenes:
  - Dichlorobenzenes
  - Hexachlorobenzene
  - Monochlorobenzene
  - Pentachlorobenzene
  - 1,2,4,5-Tetrachlorobenzene
  - Trichlorobenzenes
- Chlorinated Benzotrichlorides
- Chlorinated Benzotrifluorides
- Chlorinated, Brominated Methanes
- Chlorinated Ethanes:
  - 1,1-Dichloroethane
  - 1,2-Dichloroethane
  - Hexachloroethane
  - Monochloroethane
  - 1,1,2,2-Tetrachloroethane
  - 1,1,1-Trichloroethane
  - 1,1,2-Trichloroethane
- Chlorinated Ethylenes:
  - 1,1-Dichloroethylene
  - 1,2-Dichloroethylene
  - Monochloroethylene
  - Tetrachloroethylene
  - Trichloroethylene
- Chlorinated, Fluorinated Ethanes
- Chlorinated, Fluorinated Ethylenes
- Chlorinated, Fluorinated Methanes
- Chlorinated Methanes:
  - Carbon Tetrachloride
  - Chloroform
  - Methyl Chloride
  - Methylene Chloride
- Chlorinated Naphthalenes
- Chlorinated Pesticides
- Chlorinated Pigments/Dyes
- Chlorinated Propanediols
- Chlorinated Propanols:
  - Dichlorohydrin
  - Propylene Chlorohydrin
- Chlorinated Propylenes
- Chlorinated, Unsaturated Paraffins
- Chlorobenzaldehyde
- Chlorobenzoic Acid/Esters
- Chlorobenzoyl Peroxide
- bis(2-Chloroisopropyl) Ether
- Dimethoxy Benzophenone
- Dimethyl Benzophenone
- Diphenyl Oxide
- Epichlorohydrin
- Ethylene Diamine

Glycerol
Hexachlorobutadiene
Hexachlorocyclohexane
Hexachlorocyclopentadiene
Linear Alkyl Benzenes
Methallyl Chlorides
Pentachloronitrobenzene
Phenylchlorosilanes
o-Phenylphenol
Phosgene
Propylene Oxide
Tetramethylethylene Diamine
Trichlorophenoxy Acetic Acid

On December 20, 1982, EPA held a public meeting to describe the additional information that would be necessary to develop realistic exposure assessments for this proposed rule. Both environmental groups and industry representatives attended and participated in this meeting. In a further attempt to obtain additional data about manufacture, processing, distribution in commerce, and use of PCBs in concentrations of less than 50 ppm, EPA again described its data needs for this rulemaking at a CMA seminar held on February 17, 1983. EPA stated that it was seeking data about manufacturing processes, intermediate products, industrial end uses, consumer products, production volumes, environmental fate, and potential for occupational and consumer exposure to PCBs. EPA received 25 responses to its informal requests for information. These data were used in developing the exposure scenarios.

EPA has also received information from a number of sources on recycled PCBs. The most complete information was submitted by the API and the ARMA. API, representing nearly 200 companies, submitted comments concerning the processing of other than newly generated PCBs (recycled PCBs). API states that its members have detected PCBs in paper, pulp, and paperboard products. It believes that ambient PCBs are the source of the PCBs found in its members' products. ARMA, which represents about 15 companies, stated that asphalt roofing manufacturers have detected PCBs in asphalt roofing waste streams as a result of PCBs found in the raw materials. The PCBs are present in the waste paper used in the production of roofing felt, and in the asphalt used for saturation of the felt. PCBs have not been detected in the final product.

D. Effects on Human Health

In today's proposed rule, EPA proposes to exclude conditionally from regulation under section 6(e) of TSCA the manufacture, processing, distribution in commerce, and use of certain inadvertently generated PCBs; and the processing, distribution in commerce, and use of recycled PCBs. This proposed exclusion is based on a finding that such PCBs present no unreasonable risk of injury to human health and the environment. EPA, in deciding whether a chemical presents an unreasonable risk, considers the factors outlined in section 6(c) of TSCA.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur from the chemical under consideration against the cost to society of placing restrictions on that chemical. Specifically, EPA has considered the following factors:

(1) The effects of inadvertently generated and recycled PCBs on human health and the environment;

(2) The magnitude of exposure of these PCBs to humans and the environment;

(3) The benefits of using those products containing inadvertently generated PCBs; and

(4) The economic impact resulting from the proposed rule's effect upon the national economy, small business, technological innovation, the environment, and public health.

1. HUMAN HEALTH RISKS

In deciding whether to grant an exclusion, EPA considered the effect of PCBs on human health and the environment. The effects of PCBs have been previously described in various document that are part of the rulemaking record for the May 31, 1979, PCB Ban Rule. EPA evaluated this information, new information submitted to the Agency, and other recent literature. The results are presented in EPA's "Response to Comments on Health Effects of PCBs," which is included in the rulemaking record and summarized below. Copies of this document are available through EPA's TSCA Assistance Office (see address listed under "**FOR FURTHER INFORMATION CONTACT**").

a. Health effects.

EPA has determined that PCBs are toxic and persistent. PCBs can enter the body through the lungs, gastrointestinal tract, and skin; circulate throughout the body; and be stored in the fatty tissue.

In some cases chloracne may occur in humans exposed to PCBs. Chloracne is painful, disfiguring, and may require a long time before the symptoms disappear. Although the effect of chloracne are reversible, EPA considers these effects to be significant.

In addition, EPA finds that PCBs may cause reproductive effects, developmental toxicity, and oncogenicity in humans exposed to PCBs. Available data show that some PCBs have the ability to alter reproductive processes in mammalian species, sometimes even at doses that do not cause other signs of toxicity. Animal data and limited available human data indicate that prenatal exposure to PCBs can result in various degrees of developmentally toxic effects. Postnatal effects have been demonstrated in immature animals, following exposure to PCBs prenatally and via breast milk.

In addition, since the administration of PCBs to experimental animals results in tumor formation, reproductive effects and developmental toxicity, EPA finds that there is the potential to produce these effects in humans exposed to PCBs. EPA finds no evidence to suggest that the animal data would not be predictive of the potential for oncogenic effects in humans.

Available data indicate little or no mutagenic activity from PCBs. EPA believes, however, that more information is needed to draw a conclusion on the possibility of mutagenic effects from PCBs.

Results of the National Human Adipose Tissue Survey conducted by EPA indicate that the estimated fraction of the national population having greater than 3 ppm of PCBs has decreased from 8 to 1 percent between 1977 and 1981, after increasing from 2.7 to 8 percent between 1972 and 1977. These data indicate that exposure of the U.S. population to PCBs is decreasing.

b. Risks

Toxicity and exposure are the two basic components of risk. EPA has taken exposure into consideration when evaluating the exclusions proposed in this rule. EPA first estimated the maximum probable human exposures to inadvertently generated PCBs in a quantitive exposure assessment. Using the quantitive exposure assessment, EPA developed quantitative risk assessments. Descriptions of both the quantitative exposure assessment and the quantitative risk assessments appear below.

i. Quantitative exposure assessment. As a part of the risk assessment process, a series of exposure assessments were conducted by EPA. The purpose of the exposure assessments was to estimate the maximum probable human exposures to inadvertently generated PCBs under various scenarios. Included among the various scenarios are occupational, consumer, and general population exposures to PCBs through ingestion, inhalation, and dermal absorption. EPA has also developed

generic exposure assessments for activities that recycle PCBs.

Few data were available to EPA regarding actual exposure to inadvertently generated and recycled PCBs. Thus, in estimating exposure levels, EPA developed a hypothetical worst-case approach. EPA believes that all of the estimated exposures are equal to or greater than actual exposures.

After developing a list of processes most likely to generate PCBs, as described in Unit III.C of this preamble, EPA developed a list of possible exposure scenarios. From this list of exposure scenarios, EPA developed a number of generic exposure scenarios to assess the exposure to PCBs in the workplace and exposures to PCBs in the environment resulting from releases of PCBs to air, water, and solid wastes. These scenarios are representative of known exposures to inadvertently generated and recycled PCBs. Five of these generic exposure scenarios estimated the maximum probable human exposures to inadvertently generated PCBs under five different ambient exposures. The remaining generic exposure scenarios estimated the exposure in 20 different occupational settings. Among the occupational exposure settings considered in this assessment are spray painting operations, pesticide spraying operations, removal of still bottoms from process equipment, and maintenance of process equipment.

In addition, nine scenarios assess consumer exposures to PCBs during the use of products potentially containing PCBs. These consumer exposure scenarios empahsize products whose potential for exposure is large because of high frequency or duration of use.

Detailed descriptions of the exposure scenarios and their findings are included in the support document entitled "Exposure Assessment for Incidentally Produced Polychlorinated Biphenyls."

ii. Quantitative human health risk assessments. EPA published a document in August 1982 entitled "Response to Comments on Health Effects of PCBs Submitted by CMA and the Edison Electric Institute." This document is a comprehensive review of available data concerning the health effects of PCBs. The findings of this document are described in Unit III.D.1.a above. Toxicity information on PCBs provided in the "Response to Comments on Health Effects of PCBs Submitted by CMA and the Edison Electric Institute" and the quantitative exposure assessment discussed above, have been used in preparing a reproductive/developmental risk assessment and a carcinogenicity risk assessment for PCBs. EPA is not able to prepare a quantitative risk assessment for chloracne since no epidemiology or test animal data were available to make such a risk assessment possible.

CMA, EDF, and NRDC in the consensus proposal estimated that the total annual production of inadvertently generated PCBs approximates 100,000 pounds. This poundage is but a small percentage (1.0 percent) of the 10,000,000 pounds that the consensus proposal estimates to have entered the environment annually before PCB controls were instituted.

In addition, the consensus proposal states that fewer than 11,000 pounds of inadvertently generated PCBs were estimated to enter products annually. Further, many products that contain inadvertently generated PCBs are chemical intermediates. In the consumer end-use products, the PCBs would in many instances be bound in tight matrices. Based on these facts, EPA agrees with the consensus proposal that releases of inadvertently generated PCBs would have no measurable effect on the public health.

(1) Reproductive/Developmental Risk Assessment.

The document entitled "Quantitative Risk Assessment of Reproductive Risk Associated with PCB Exposure" is one of the first documents in which EPA attempts to quantify the predicated reproductive/developmental risks. Since EPA will be involved in the development of other, future reproductive/developmental risk assessments, the Agency is particularly interested in receiving comments on basic issues pertaining to reproductive/developmental risk assessments in general. Examples of these issues are: (1) Criteria for selecting the most appropriate model for assessing risk, and (2) whether or not to assume the existence of a threshold for reproductive effects. The results of the PCB reproductive/developmental risk assessment by the methods used indicate that these risks are less than those risks predicted in the PCB carcinogenic risk assessment.

Two studies were used in the reproductive/developmental risk assessment. In the first study, Rhesus monkeys were exposed to PCBs in their diet for 18 months at concentrations of 2.5 and 5.0 ppm. Symptoms observed included reproductive problems such as stillbirths, spontaneous abortions, resorptions, or death of infants prior to weaning. Neonatal toxicity, including lowered birth weight, was also observed. Many problems were encountered in evaluating these data for use in the risk assessment because of difficulties in quantifying actual dosages ingested by the Rhesus monkeys.

The second study used in this assessment was a two-generation study conducted on rats receiving 1, 5, 20, and 100 ppm PCBs in their diet. Death prior to weaning was the observed effect. In general, the number of deaths prior to weaning increased with an increase in dosage level. Data were also included from a post-implantation study conducted at 10, 50, and 100 milligrams per kilogram per day (mg/kg/day) of PCBs. There was no evidence that reproduction and pup survival were affected at 10 and 50 mg/kg/day, but there was a dramatic increase in the percentage of pups dead at weaning at the 100 mg/kg/day dose level.

Several methods were used to calculate reproductive risks for humans from the Rhesus monkey study and the rat study. The usual method of setting a "safe" level of exposure is based on a no observed effect level (NOEL). The lowest and highest "safe" levels derived using this method were 0.05 ug/kg/day and 50.0 ug/kg/day. Ten different models were considered in order to extrapolate to "safe" levels. These models are described in detail in the support document entitled "Quantitative Risk Assessment of Reproductive Risks Associated with PCB Exposure."

The linear interpolation technique using the rat data was selected to extrapolate risks to humans from available exposure scenarios. Because of the better quality or the rat study as compared to the Rhesus monkey study, data from the rat study were selected for use in developing the risk assessment. The model chosen is the most conservative and, therefore, the most protective of human health.

Based on this risk assessment, EPA estimated the risk during organogenesis for approximately 38 exposure scenarios. These 38 scenarios are representative of situations in which women in their child-bearing years would be exposed to PCBs. Most of the exposure scenarios resulted in estimated risks at extremely low levels (only 1 in 100,000 or more people exposed to PCBs would be expected to demonstrate reproductive/developmental effects from that exposure if this estimate of risk is accurate) in spite of the fact that the risks had been estimated using worst-case exposure scenarios and a conservative risk model. However, some of the exposure scenarios estimated the risk to be at higher levels. These 5 scenarios are discussed below.

(a) Continuous exposure via inhalation at the level of quantitation for

PCBs in air 10 micrograms per cubic meter ($\mu g/m^3$): This scenario was included as a point of reference. It assumes that an individual is constantly exposed to 10 $\mu g/m^3$ of PCBs in air for a lifetime. EPA estimates that maximum exposures and risks associated with inhalation of PCBs will be at least 1 order of magnitude lower and typically 2 to 3 orders of magnitude lower for workers, and 3 to 6 orders of magnitude lower for consumers and the general population. Estimated maximum exposure levels are less than levels associated with continuous exposure to the level of quantitation because either: (i) The maximum possible PCB concentration is less than 10 $\mu g/m^3$ under the conditions of the scenario, or (ii) the duration and frequency of exposure are much lower.

(b) Ingestion of fish and water obtained from streams which receive industrial wastewater effluent containing 100 micrograms of PCBs per liter of wastewater ($\mu g/l$). In EPA's exposure scenario, the concentrations of PCBs in the drinking water and fish depend entirely on how much the PCB concentration is diluted by the receiving stream. Streams with low flow rates will have the highest concentrations of PCBs. If all of the fish and water in an individual's diet is obtained from a stream with a flow rate in the lower 50 percentile of streams receiving effluents from the chemical and plastics industries, risks of reproductive effects could be high. Consequently, EPA is proposing that the concentrations of PCBs in wastewater effluent must be below the level of quantitation which is 100 $\mu g/l$. Given current, practical analytical chemistry methods, EPA set the baseline level for measuring PCBs at the LOQ because concentration levels lower than the LOQ cannot be reliably measured. Thus, setting the concentration limit for PCBs in plant effluents below the LOQ would in effect be equivalent to a total ban on PCBs in water effluents. In the unlikely case that local conditions may present a higher level of risk, this rule would be superseded by the Water Quality Standards, resulting in an applicable requirement in that plant's water discharge permit.

(c) Inhabiting a new home containing plastic building materials containing PCBs at 25 ppm. The exposure scenario assumes that all plastic building materials emit PCBs continuously and that new homes contain a total of 230 kg (507 pounds) of plastic building materials. It also assumes that all of the PCBs in the plastic materials are released into the indoor air over a two-year period and that an individual inhabits three such new homes for a total lifetime exposure duration of six years. Because of the potential for widespread exposure to consumers who are often unaware of their exposure to toxic chemicals, EPA is proposing a 5 ppm PCB concentration limit for plastic building materials. EPA believes that the risk is significantly less than the worst-case estimate because: (i) Evidence suggests that PCBs are present in plastic only as a contaminant in pigments at a maximum weight percent of plastic of less than 2 ppm, and (ii) PCBs in pigments are unlikely to migrate to air at a rate of 100 percent in 2 years.

(d) Use of soap, assuming PCBs are present in the surfactant constituent of the soap at 25 ppm. This exposure scenario assumes that all of the PCBs present in the soap are dermally absorbed. In actual use, most of the PCBs will be rinsed off before absorption. Thus, the actual exposure is significantly lower and, therefore, the risk is lower than the worst-case estimate presented in the quantitative risk assessment.

In an alternate exposure scenario, EPA estimated a typical exposure to PCBs in soap by assuming that a soap film was deposited on the skin and only the PCBs in the film were absorbed. This estimate produced and estimated risk 3 orders of magnitude less than the original exposure scenario for soap. Unlike all of the other scenarios that estimate dermal absorption of PCBs, this scenario assumes that the absorption of PCBs is spread out over time and not instantaneous. This alternate scenario is EPA's best estimate of maximum exposure to PCBs in soap. Because it is impossible to determine whether the exposures and risks estimated using assumptions in the alternate scenario equal or exceed actual exposures, EPA is proposing a 5 ppm concentration limit for PCBs in soap based on the assumption that all PCBs in the soap are absorbed. The actual exposure level will be significantly lower than the estimated exposure; therefore, the actual risk will be lower than the worst-case estimate presented in the quantitative risk assessment.

In fact, PCBs are only hypothesized to occur in soaps and may not be present. If PCBs do not occur in soaps, there would be no risk from PCB exposure in soaps.

(e) Use of skin lotions and creams, assuming PCBs are present in the surfactant constituent of these products at 25 ppm. This exposure scenario assumes daily usage, 100 percent immediate absorption, and generous applications of the skin lotions and creams.

In fact, PCBs are only hypothesized to occur in skin lotions and creams. If PCBs do not occur in these products, there is no risk from PCB exposure in skin lotions and creams. EPA has provided this information to the Food and Drug Administration (FDA), the Federal agency that regulates these products, for appropriate action.

The reproductive/developmental effects risk assessment is described in greater detail in the support document entitled "Quantitative Risk Assessment of Reproductive Risk Associated with PCB Exposure."

(2) Carcinogenic risk assessment

The carcinogenic risk assessment reviews three previous PCB risk assessments conducted by FDA, U.S. Congressional Office of Technology Assessment (OTA), and the EPA Cancer Assessment Group (CAG). Finally, the carcinogenic risk assessment includes a risk assessment of PCBs completed by the EPA Office of Toxic Substances (OTS) in September 1983.

The OTS carcinogenic risk assessment was developed using studies conducted by the National Cancer Institute (NCI) and Dr. Renate Kimbrough with three and one positive dose levels, respectively. From these studies, EPA extrapolated carcinogenic risk at certain low exposures. The dose-response data for total malignancies are linear, corresponding well with the "linearized" upper 95 percent confidence limits from the CAG risk assessment.

Based on this risk assessment, EPA estimated the excess carcinogenic risk for over 100 exposure scenarios. These scenarios are representative of known exposures to inadvertently generated or recycled PCBs. In the majority of the exposure scenarios, the estimated risk was at an extremely low level (this effect would be observed in only 1 in 100,000 or more people if this estimated risk is accurate) in spite of the fact that the risks had been estimated using worst-case exposure scenarios and a conservative risk model. For the scenarios listed below, the estimated risk appeared to be at a level that warranted further review of the assumptions used. Thus, EPA reviewed further the following exposure scenarios:

Ambient Inhalation

Exposure at the PCB level of quantitation for air (10 ug/m^3).

Ambient Ingestion

Average adult intake of PCBs via food as reported by FDA in 1978.

Ingestion of fish containing 2 ppm of PCBs.

Ingestion of fish or water obtained from water bodies downstream of chemical plants discharging wastewater containing 100 μ/l of PCBs.

Occupational Inhalation

Exposure at the Occupational Safety and Health Administration (OSHA) standard for PCBs in air (1000 $\mu g/m^3$).

Exposure at the level of quantitation of PCBs in air (10 $\mu g/m^3$).

Exposure at the NIOSH recommended standard for PCBs in air (1 $\mu g/m^3$).

Loading/unloading a powder assuming compliance with the OSHA nuisance dust standard and assuming PCBs are present in the powder at 25 ppm.

Exposure to background levels of fugitive emissions in enclosed chemical manufacturing plants assuming PCBs are present in the process stream at 25 ppm.

Exposure to paint mists during spray painting assuming PCBs are present in the solvent at 25 ppm.

Exposure to evaporative emissions during plastic manufacturing operations assuming PCBs are present in the plastic at 25 ppm.

Exposure during manufacture of asphalt roofing products (various concentrations).

Exposure to evaporative emissions during paper manufacturing assuming PCBs are present in waste at 12 ppm.

Exposure during sampling assuming the process stream contains PCBs at 25 ppm.

Exposure during removal of still bottoms assuming PCBs are present in the still bottoms at 200, 2500, and 5000 ppm.

Exposure to fugitive emissions for a worker stationed 6 meters downwind of leaking equipment assuming PCBs are present in the emitted chemical at 25 ppm.

Exposure to paint mists during spray painting assuming PCBs are present in the solvent at 25 ppm.

Occupational Dermal

Transfer and handling operations assuming PCBs are present at 25 ppm. Specifically: loading/unloading liquid; and, loading/unloading powder.

Processing operations assuming PCBs are present at 25 ppm. Specifically: Closed process operations; open surface tank operations; spray painting operations; grain fumigation operations; non-spray coating operations; product formulation operations; product fabrication operations; metalworking operations; newspaper production; plastic manufacture; and dry cleaning of garments.

Sampling and maintenance operations assuming PCBs are present at 25 ppm in the process stream. Specifically: Sampling process stream; cleaning equipment; off-line repair of equipment; removing filters; removing still bottoms assuming PCBs are present in still bottoms at 200, 2500 and 5000 ppm; and spill cleanup.

Consumer Inhalation

Exposures resulting from inhabiting a new home containing plastic building materials which are assumed to contain PCBs at 25 ppm.

Consumer Dermal

Exposures resulting from use of deodorant soaps assuming PCBs are present in the surfactant at 25 ppm.

Exposures resulting from use of skin lotions assuming PCBs are present in the surfactant at 25 ppm.

(a) Occupational exposures. All except seven of the scenarios listed above represent estimated occupational exposure. EPA has reviewed those scenarios that estimated the occupational exposure to PCBs. In instances where the occupational dermal exposure is estimated, immediate total absorption is assumed. The inhalation and dermal exposure scenarios assume that workers were exposed to PCBs for 38.5 years. Further, protective equipment must be worn by workers handling many of the chemicals in which inadvertently generated PCBs can be found based on industrial hygiene programs prescribed by individual companies and OSHA regulations. Therefore, EPA concludes that the actual risks from such exposures are significantly lower than the worst-case estimates presented in the quantitative risk assessment.

(b) Continuous exposure via inhalation at the level of quantitation for PCBs in air (10 $\mu g/m^3$). This scenario was included as a point of reference. It assumes that an individual is constantly exposed to 10 $\mu g/m^3$ of PCBs in air for a lifetime. EPA estimates that maximum exposures and risks associated with inhalation of PCBs will be at least 1 order of magnitude lower and typically 2 to 3 orders of magnitude lower for workers, and 3 to 6 orders of magnitude lower for consumers and the general population. Estimated maximum exposure levels are less than levels associated with continuous exposure to the level of quantitation because either: (i) The maximum possible PCB concentration is less than 10 $\mu g/m^3$ under the conditions of the scenario, or (ii) the duration and frequency of exposure are much lower.

(c) Food intake at levels reported by FDA in 1978. This scenario assumes that individuals ingest PCBs at the levels found in a food survey conducted by FDA in 1978. If these levels are actually found in food, however, they would most likely come from the estimated hundreds of millions of pounds of intentionally generated PCBs that are found in the environment. Compared to these PCBs, releases of PCBs from activities excluded from the PCB ban by this rule are not expected to result in a significant incremental risk to public health.

(d) Ingestion of fish containing 2 ppm of PCBs. This scenario assumes that all fish eaten contain 2 ppm of PCBs, the FDA proposed tolerance level for PCBs in fish. In addition, this scenario assumes that 6.5 grams of PCBs are eaten by an individual each day for 70 years. If these levels are actually found in fish, however, they would most likely come from the hundreds of millions of pounds of PCBs estimated to be in the environment. When compared to these PCBs, activities excluded under this rule release negligible amounts of PCBs. This rule is not expected to result in significant incremental risk from ingestion of fish. If local conditions indicate a higher level of risk, this rule would be superseded by the Water Quality Standard, resulting in an applicable requirement in that plant's discharge permit.

(e) Ingestion of fish and water obtained from streams which receive industrial wastewater effluent containing 100 micrograms of PCBs per liter of wastewater (μg/l). In EPA's exposure scenario, the concentrations of PCBs in the drinking water and fish depend entirely on how much the PCB concentration is diluted by the receiving stream. Streams with low flow rates will have the highest concentrations of PCBs. If all of the fish and water in an individual's diet is obtained from a stream with a flow rate in the lower 50 percentile of streams receiving effluents from the chemical and plastics industries, risks of reproductive effects could be high. Consequently, EPA has decided that the concentration of PCBs in wastewater effluent must be below the level of quantitation of 100 μg/l. Given current, practical analytical chemistry methods, EPA set the baseline level for measuring PCBs at the LOQ because concentration levels lower than the LOQ cannot be reliably measured. Thus, setting the concentration limit for PCBs in plant effluents below the LOQ would in effect be equivalent to a total ban on PCBs in water effluents. In the unlikely case that local conditions may present a higher level of risk, this rule would be superseded by the Water Quality Standards, resulting in an applicable requirement in that plant's water discharge permit.

(f) Inhabiting a new home containing plastic building materials containing PCBs at 25 ppm. The exposure scenario assumes that all plastic building materials emit PCBs continuously and that new homes contain a total of 230 kg (507 pounds) of plastic building materials. It also assumes that all of the PCBs in the plastic materials are released into the indoor air over a two-year period and that an individual inhabits three such new homes for a

total lifetime exposure duration of six years. Because of the potential for widespread exposure to consumers who are often unaware of their exposure to toxic chemicals, EPA is proposing a 5 ppm PCB concentration limit for plastic building materials. EPA believes that the risk is significantly less than the worst-case estimate because: (1) Evidence suggests that PCBs are present in plastic only as a contaminant in pigments at maximum weight percent of plastic of less than 2 ppm, and (ii) PCBs in pigments are unlikely to migrate to air at a rate of 100 percent in two years.

(g) Use of soaps assuming that PCBs are present in the surfactant component of the soaps at 25 ppm. This exposure scenario assumes that all of the PCBs present in the soap are dermally absorbed. In actual use, most of the PCBs will be rinsed off before absorption. Thus, the estimated exposure is significantly lower; therefore, the risk is lower than the worst-case estimate presented in the quantitative risk assessment.

In an alternate exposure scenario, EPA estimated a typical exposure to PCBs in soap by assuming that a soap film was absorbed. This estimate produced an estimated risk 3 orders of magnitude less than the original exposure scenario for soap. Unlike all of the other scenarios that estimate dermal absorption of PCBs, this scenario assumes that the absorption of PCBs is spread out over time and not instantaneous. The alternate scenario is EPA's best estimate of maximum exposure to PCBs in soap. Because it is impossible to determine whether the exposures and risks estimated using assumptions in the alternate scenario equal or exceed actual exposures, EPA is proposing a 5 ppm concentration limit for PCBs in soap based on the assumption that all PCBs in the soap are absorbed. The actual exposure level will be significantly lower than the estimated exposure, and the actual risk will be lower than the worst-case estimate presented in the quantitative risk assessment.

In fact, PCBs are only hypothesized to occur in soaps and may not be present. If PCBs do not occur in soaps, there would be no risk from PCB exposure in soaps.

(h) Use of skin lotions and creams assuming that PCBs are present in the surfactant component of the skin lotions and creams at 25 ppm. This exposure assessment assumes daily usage, 100 percent immediate absorption, and generous application of the skin lotions and creams.

In fact, PCBs are only hypothesized to occur in skin lotions and creams. If PCBs do not occur in these products, there is no risk from PCB exposure in skin lotions and creams. EPA has provided this information to the FDA, the Federal agency that regulates these products for appropriate action.

Further details concerning this quantitative risk assessment are presented in the support document entitled "Summary and Update of Carcinogenic Risk Assessments of Polychlorinated Biphenyls."

2. EFFECTS ON THE ENVIRONMENT

In previous PCB rulemaking, EPA concluded that PCBs can be concentrated in freshwater and marine organisms. The transfer of PCBs up the food chain from phytoplankton to invertebrates, fish, and mammals can result ultimately in human exposure through consumption of PCB-containing food sources. Available data show that PCBs affect the productivity of phytoplankton communities; cause deleterious effects on environmentally inportant freshwater invertebrates; and impair reproductive success in birds and mammals.

PCBs also are toxic to fish at very low exposure levels. The survival rate and the reproductive success of fish can be adversely affected in the presence of PCBs. Various sublethal physiological effects attributed to PCBs have been recorded in the literature. Abnormalities in bone development and reproductive organs also have been demonstrated.

EPA also conducted a quantitative environmental risk assessment of PCBs for this rulemaking, including a review of available environmental data. This assessment can be found in the support document entitled "Environmental Risk and Hazard Assessments of Polychlorinated Biphenyls." EPA concluded that ambient concentrations and food chain transport of PCBs may impair the reproductive potential of commercially valuable fish and certain wild mammals. PCB residues also are strongly correlated with reductions in natural populations of marine mammals and may be correlated with declines in river otter populations. High PCB residues have been found in various birds, especially gulls and carnivorous birds, but no resulting effects have been demonstrated.

In addition, EPA estimated the toxicity for the monochlorinated through hexachlorinated biphenyls and for decachlorinated biphenyl. These estimates show that as the number of chlorine atoms on the biphenyl molecule increases, the no observable effect concentration (NOEC) for fish decreases. For example, in juvenile and adult fish the NOEC for the monochlorinated biphenyl isomers were estimated to be 50–80 micrograms per liter (µg/l); the NOEC for the hexachlorinated biphenyl isomers was estimated to be 0.01 µg/l. Likewise, in the early life stages of fish (i.e., embryo and sac fry), the NOEC was estimated at 2 to 3 µg/l for the monochlorinated biphenyl isomers and 0.001 µg/l for the hexachlorinated biphenyl isomers. These estimates were partially based upon data obtained using the most sensitive fish species.

According to the consensus proposal, the total annual production of inadvertently generated PCBs approximates 100,000 pounds, most of which are never released to the environment. CMA, EDF, and NRDC estimate that fewer than 1,000 pounds annually are likely to enter the environment. This annual production is only 0.01 percent of the 10 million pounds that are estimated to have entered the environment annually before PCB controls were instituted. This production is only 0.0007 percent of the total 180 million pounds estimated to have entered the environment prior to institution of PCB controls. In addition, the consensus proposal states that various monitoring studies have documented the declining load of PCBs in the environment. Based on these facts, EPA agrees with the conclusion stated in the consensus proposal that releases of PCBs from inadvertent generation, even at the level of 10,000 pounds of PCBs released annually, would have no measurable effect on the declining environmental load.

EPA in setting the PCB concentration limit for water effluent below the LOQ, the level below which PCBs can not practically and reliably be measured. Setting the the concentration limit for PCBs below the LOQ would in effect be equivalent to a total ban on PCBs in water effluents.

In addition, reporting requirements are proposed in this rule that would require manufacturers to notify EPA if they are releasing more than 10 pounds of PCBs to air or water annually. Thus, EPA will be able to monitor those streams which are receiving high levels of PCBs from plant effluents. If PCBs released into the water from plants excluded under this rule result in a high potential risk of injury to the environment, this rule would be superseded by the Water Quality Standards resulting in an appropriate requirement in the plant's water discharge permit.

3. DISCOUNTING FACTORS FOR MONOCHLORINATED AND DICHLORINATED BIPHENYLS

The consensus proposal submitted to EPA by CMA, EDF, and NRDC allows for the discounting of monochlorinated biphenyls by a factor of 50 and dichlorinated biphenyls by a factor of 5.

In their recommendation, CMA, EDF, and NRDC stated that despite the manufacture in the United States of approximately 10 million pounds of monochlorinated biphenyls and more than 100 million pounds of dichlorinated biphenyls (as part of commercial PCB mixtures) from 1930 to 1978, no monochlorinated biphenyls and few, if any, dichlorinated biphenyls have been detected in humans or the environment. The consensus proposal attributes these monitoring results to several factors that distinguish between monochlorinated and dichlorinated biphenyls and the higher chlorinated biphenyls. In contrast to the more highly chlorinated biphenyls, the monochlorinated and dichlorinated biphenyls are: (1) Less likely to adsorb to solids; (2) more likely to dissolve in water; (3) more likely to move from natural bodies of water to air; (4) more likely to biodegrade; and (5) less likely to bioaccumulate. Thus, CMA, EDF, and NRDC concluded that monochlorinated and dichlorinated biphenyls are less persistent in the environment and less likely to magnify or accumulate than the more highly chlorinated biphenyls.

Both General Electric and Dow Chemical Company have petitioned the Agency under section 21 of TSCA to amend the PCB regulations to include discounting factors for the lower chlorinated PCBs. EPA denied these petitions, but stated in the denials that this issue would be considered in this rulemaking.

In support of these discounting factors, CMA, EDF, and NRDC considered data by Moolinaar (1982) as well as information provided by Dow Chemical Company in its May 13, 1982 citizen's petition to amend 40 CFR Part 761. In general, this information demonstrates that monochlorinated and dichlorinated biphenyls are less persistent than more highly chlorinated biphenyls. The information included environmental variables such as environmental persistence, residence time in water, and fish bioconcentration. Adipose and plasma levels in capacitor workers and levels in human milk samples were also considered. A chart is presented in the consensus proposal that compares persistence data for monochlorinated and dichlorinated biphenyls with persistence data for trichlorinated biphenyls are less persistent than trichlorinated biphenyls.

To illustrate how these discounting factors would work, assume a product (not a deodorant bar, soap, or plastic building material) is analyzed and found to have a PCB concentration of 510 ppm PCBs. After further analysis it is determined that the product contains 10 ppm of decachlorinated biphenyl and 500 ppm of monochlorinated biphenyl. Since the discounting factor for monochlorinated biphenyl is 50, this product, for purposes of this regulation, contains only 10 ppm of monochlorinated biphenyl (500 ppm monochlorinated biphenyl ÷ 50 discounting factor = 10 ppm PCBs). This product would be found in compliance since, for purposes of this regulation, it would be considered to contain only 20 ppm PCBs (10 ppm attributed to monochlorinated biphenyl and 10 ppm attributed to decachlorinated biphenyl).

After consideration of the available information, EPA is proposing the concept for discounting the monochlorinated and dichlorinated biphenyls. This action is based on evidence that these species are less persistent and bioaccumulate less than the more highly chlorinated biphenyls, and upon evidence that monochlorinated and dichlorinated biphenyls are not found in adipose tissue.

E. Regulatory Impact Analysis, Benefits, and Availability of Substitutes

1. BENEFITS OF PCBs AND AVAILABILITY OF SUBSTITUTES

CMA has stated that any chemical process involving carbon, chlorine and elevated temperatures is likely inadvertently to generate some PCBs. Chlorine and carbon are two of the most abundant elements on earth. Thus, both are present in many chemical processes. In fact, as mentioned in Unit III.C of this preamble, EPA developed a list of approximately 200 chemical processes with a potential for inadvertently generating PCBs. These 200 chemical processes are of major importance to the organic chemical industry. For example, many of these processes produce high volume chlorinated solvents.

A wide variety of other products are known or believed to contain inadvertently generated PCBs. Among these products are paints, printing inks, agricultural chemicals, plastic materials, and soaps. These products are widespread in our society. Products, such as soap and paint, are considered essential, nonluxury items in our society. Thus, many of the products that contain inadvertently generated PCBs have great societal value.

Industry commented in response to the Closed and Controlled Waste Manufacturing Processes Rule that, in general, substitutes are not available for products contaminated with low level PCBs at the same or equivalent cost as PCB-contaminated products. In general, industry has not been successful in modifying processes to prevent the incidental formation of any PCBs. CMA has furthermore commented that research programs to study ways to reduce incidental PCB formation are very costly and have met with limited success.

EPA estimated the cost of controlling the level of inadvertently generated PCBs in a number of products through process modifications. Estimates range from approximately $77 million to $451 million if plants continue operations for 10 years. This situation contrasts markedly with the costs of controlling intentionally generated PCBs (i.e., Aroclors) since the costs of controlling or avoiding these PCBs are relatively small. Also, several Aroclor substitutes exist. As an example, Unit V.D. of this preamble states that there are at least three non-PCB substitutes for the Aroclor fluids once used in hydraulic systems.

2. ECONOMIC CONSEQUENCES

EPA has several options for dealing with the uncontrolled PCBs. EPA could allow the total ban of section 6(e) to take effect. Also, EPA could set the permissible levels of PCBs either higher or lower than those proposed in this rule.

Had EPA allowed the ban to become effective, companies could: (1) Modify the processes that incidentally generate PCBs so that they would not generate PCBs, (2) substitute PCB-containing products with non-PCB-containing products, or (3) apply for annual exemptions under section 6(e)(3)(B) of TSCA. As stated above, industry has commented that substituting products or substituting processes to eliminate incidentally generated PCBs is not generally feasible. Thus, the selection of this regulatory option could result in a major disruption in commerce.

In the Regulatory Impact Analysis (RIA) prepared for this proposed rule, it is estimated that the total costs of the exemption petition process over the next 10 years would range from $950 million to $5.6 billion. These costs are extremely high and would present a significant economic burden to industry. (See support document entitled "Regulatory Impact Analysis of the Proposed Rule

Regulating Inadvertent PCB Generation from Uncontrolled Sources.")

If EPA set the PCB concentration limits at a higher level, the result will be much lower costs. However, higher PCB concentration limits would result in significantly higher risks of injury to health and the environment. Conversely, if EPA set the PCB concentration limits at a lower level, the result would be lower risks of injury to health and the environment. The costs associated with lowering these concentration limits, however, would be much greater, approaching the total costs estimated for the exemption petition process.

The only identifiable costs of this proposed rule with respect to uncontrolled PCBs result from the certification, recordkeeping, and reporting requirements. These costs were estimated in the RIA to range from $9.63 million to $59 million over a 10 year period. Thus, this proposed rule presents very low costs in comparison with more restrictive approaches.

EPA estimates that this proposed rule will not result in a disruption of commerce. A disruption of commerce is likely if the total ban or more restrictive concentration limit options were chosen. EPA also believes that this rule will allow companies to develop new processes that inadvertently generate low level concentrations of PCBs. EPA estimates that the discounting factors for monochlorinated and dichlorinated biphenyls are likely to save industry $800 thousand to $4.7 million each year.

The RIA concludes that small businesses generating inadvertent PCBs will benefit form the provisions of this proposed rule. EPA bases this conclusion on its determination that all of the small businesses identified as being affected by section 6(e) of TSCA will be excluded from control. Thus, these small businesses will avoid the expense associated with filing annual exemption petitions.

With respect to technological innovation, it is reasonable to assume that at lest some portion of the sums that industry will save by not being subjected to a total PCB ban will go to research and development activities.

F. Unreasonable Risk Determination

EPA concludes that the risks associated with the manufacture, processing, distribution in commerce and use of those inadvertently generated and recycled PCBs excluded from the prohibitions of section 6(e) of TSCA by this proposed rule are outweighed by the costs that would be incurred if these PCBs were to be banned. The extremely high costs of eliminating the very low risks that can be attributed to the inadvertent generation of low level concentrations of PCBs would place an unwarranted burden on society, with only a minimal reduction in public health risks. Therefore, EPA concludes that the exclusions proposed in this rule do not present an unreasonable risk of injury to health or the environment. The following facts support this conclusion.

1. EPA has estimated the carcinogenic, reproductive/developmental, and environmental risks associated with exposure to inadvertently generated and recycled PCBs at the levels excluded by this proposed rule. It is estimated that the risks associated with the vast majority of these worst-case exposure scenarios are of minimal significance.

For those products that EPA believes have a higher exposure potential, EPA has set a lower, more protective concentration limit of 5 ppm. This limit is more protective of consumers who are often unaware of potential hazards from exposure to chemicals in consumer use products.

2. Monochlorinated and dichlorinated biphenyls are not found in adipose tissue, and these PCBs are not as persistent in the environment as the more chlorinated PCBs. Therefore, discount factors established in this rule will not present serious health risks.

3. Although the number of processes that inadvertently generate PCBs may be large, the total quantity of such PCBs is several orders of magnitude less than the quantities previously intentionally manufactured (i.e., Aroclor PCBs). It is estimated that 10 million pounds entered the environment annually before PCB controls were instituted, and that a total of 180 million pounds entered the environment prior to institution of PCB controls.

4. The recordkeeping and reporting requirements proposed in this rule provide EPA with a means of accounting for major releases of PCBs, and for reassessing the findings in this proposed rule if necessary.

5. In general, substitutes are not reasonably available for products contaminated with low level PCBs and the processes that generate these PCBs cannot be cost-effectively modified to prevent the formation of any PCBs.

6. This rule will save society the enormous costs of instituting a ban on low level concentrations of inadvertently generated PCBs. The rule does impose recordkeeping and reporting burdens. However, if this rule is issued as proposed, the larger burdens imposed on industry by the prohibitions of section 6(e)(3), in particular the annual exemption process with its uncertainties, are avoided.

7. Small companies would benefit from this proposed rule and the rule could provide some impetus to technological innovation in the chemical industry.

G. Disposal Requirements

Section 761.190 of this proposed rule requires that any processs waste containing 50 ppm or greater PCBs, which are present as a result of inadvertent generation or recycling, must comply with certain disposal provisions of the PCB Ban Rule. These provisions are: (1) Incinerate PCB process waste in accordance with § 761.60; (2) landfill such PCB waste in a landfill approved under the provisions of §§ 761.60 and 761.75; and (3) store such PCB waste for incineration or landfilling in accordance with the requirements of § 761.65(b)(1).

In the PCB Ban Rule, EPA concluded that the 50 ppm disposal standard provided adequate protection to human health and the environment. EPA reaffirms this conclusion and will retain the 50 ppm PCB standard for disposal. In determining the concentration of inadvertently generated PCBs for disposal purposes, the discounting factors for monochlorinated and dichlorinated biphenyls (50 and 5 respectively) may be used.

H. Recordkeeping, Reporting, and Certification

1. RECORDKEEPING AND REPORTING

The consensus proposal contains certain recordkeeping and reporting requirements. According to the consensus proposal, manufacturers who intend to take advantage of this exclusion must notify EPA of products leaving the manufacturing site or imported products that contain greater than 2 micrograms of PCBs per gram of product (μg/g) for any resolvable gas chromatographic peak (2 ppm). The consensus proposal states that the notification must include the number, type, and location of excluded manufacturing processes. In addition, these notices must include a certification, signed by an appropriate corporate official, that: (1) The manufacturer is in compliance with all requirements of the regulation; (2) the determination of compliance is based on actual monitoring or on a theoretical assessment; and (3) monitoring data or the theoretical assessment is maintained.

Manufacturers who wish to take advantage of the exclusion must also notify the Agency if they are releasing

more than 10 pounds of PCBs to air or water annually. Furthermore, the consensus proposal provides that the total quantity of PCBs in products leaving the site of an excluded manufacturing process in any calendar year must be reported to EPA when the total production quantity exceeds 0.0025 percent of that site's rated capacity for such manufacturing processes. Importers must report to EPA whenever the quantity of PCBs imported in any calendar year exceeds 0.0025 percent of the average total quantity of product containing PCBs imported by the importer between 1978 and 1982. These notices must be submitted to EPA within 90 days of publication of this regulation in the **Federal Register** or 90 days of starting up processes or commencing importation for which such reports are required.

Reports of theoretical analyses or actual monitoring must be kept for seven years or three years after the process ceases, whichever is shorter. Reports of theoretical assessments must include a description of the reactions generating PCBs, levels generated, and levels released. The basis for these estimates, as well as the names and qualifications of personnel preparing the assessment, must be included in the report. Monitoring reports must include the data, the method of analysis, quality assurance plan, name of analysts, and the date and time of the analysis.

EPA agrees with the recordkeeping and reporting requirements arrived at jointly by industry and environmental groups and has incorporated them in §§ 761.185, 761.187, and 761.193 of the proposed rule. EPA intends to use the information required under this proposed rule used in the development of an enforcement strategy and compliance monitoring program.

EPA proposes that two additional minor requirements be added to the actual monitoring requirements proposed. EPA proposes that the monitoring information include: (1) The identification of the sample matrix; and (2) the lot numbers for the sample. Without this information, EPA cannot adequately determine what has been analyzed. EPA believes that the identification of the sample matrix and the lot numbers for the sample will not significantly increase the reporting time or cost to the regulated industry. EPA proposes that these requirements also apply to recycled PCBs. Further, EPA is proposing that if the certification is based on a theoretical analysis, that the estimates of PCB levels generated and released must be submitted with the certification.

A report will not be required for those PCBs in air, waste, and products below the LOQ, as established under the Closed and Controlled Waste Processes Manufacturing Rule. Generally, a report will not be required for those PCBs in water below the LOQ. However, under certain conditions PCBs released in water below the LOQ may present high risks (as described in Unit III.D.1 of this preamble). In light of this fact, theoretical assessments that predict a plant will release more than 10 pounds of PCBs annually in the water effluent must be submitted to EPA, even if PCBs are not quantitated in the effluent during monitoring. Since CMA, EDF, and NRDC recommended the basic recordkeeping and reporting requirements proposed in this rule and described above, EPA believes that the reporting requirements proposed in this rule do not present an unreasonable burden on the regulated industry.

2. CERTIFICATION

The consensus proposal provides that a report must be filed with EPA whenever a product leaving the site of an excluded manufacturing process or being imported contains greater than 2 micrograms of PCBs per gram of product for any resolvable gas chromatographic peak. In addition to this report, excluded manufacturers and importers must certify that they are in compliance with this proposed regulation, including requirements for products, air, and water releases, and process waste disposal. The certification must include the basis for the determination that they are in compliance with this regulation (i.e., either actual monitoring or theoretical assessments). Finally, the excluded manufacturers and importers must certify that the records specified in this proposed regulation are maintained.

EPA agrees with the certification program recommended in the consensus proposal and has adopted it as § 761.185 of the proposed rule. As proposed, this certification must be submitted within 90 days of starting up a process or commencing importation of PCBs. This certification process must be repeated whenever chemical process conditions are significantly modified to make the previous certification invalid. Only minor changes to the consensus proposal, such as where to submit such certification, have been made in this proposed rule.

I. Quantitation of PCB Concentration Levels

1. ANALYTICAL CHEMISTRY METHODOLOGY

The consensus proposal recommends the use of the analytical chemistry methods developed for the Closed and Controlled Waste Manufacturing Processes Rule in determining the PCB concentration level in particular media. EPA agrees with CMA, EDF, and NRDC that the analytical chemistry methodology developed for the Closed and Controlled Waste Manufacturing Processes Rule is appropriate under this proposed rule. Thus, the analytical chemistry methodology that will be used as part of this proposed rule will follow the Closed and Controlled Waste Manufacturing Processes Rule guidance that was set forth in the document entitled "Analytical Methods for By-Product PCBs—Preliminary Validation and Interim Methods." This document presents proposed methods for chemically analyzing inadvertently generated PCBs in commercial products, product waste streams, water effluent, and air. The proposed analytical chemistry methods are based on determination of quantities of PCBs using gas chromatography/electron impact mass spectrometry (GC/EIMS). Capillary column gas chromatography (CGC) and packed column gas chromatography (PCG) are presented as alternative approaches. This analytical chemistry methodology for commercial products and product waste streams relies heavily on a strong quality assurance program.

2. SAMPLING SCHEME

EPA is proposing a sampling technique that will be used by the Agency when it monitors for compliance during an enforcement inspection. The sequential sampling protocol that EPA is proposing bases the decision to take a further sample on the results of analyses already performed. The advantage of sequential sampling is that early results will, in some cases, provide adequate evidence for a decision of compliance or noncompliance, and the expense of further testing can be avoided. Under this sampling protocol, only a few chemical analyses would be required to confirm PCB levels in product, air, and water samples which are strongly compliant (very low PCB levels) or strongly noncompliant (very high PCB levels). Under the proposed sequential sampling protocol, no more than seven samples would be analyzed. Detailed information about the proposed sequential sampling protocol is included

in the support document entitled "Guidance Document on Sampling and Sample Selection for Uncontrolled PCBs."

3. ESTABLISHING A BASELINE FOR MEASUREMENT OF PCBs

The lowest concentration of a substance that an analytical process can detect is referred to as the limit of detection (LOD). The lowest concentration of a substance that an analytical process can quantify with a known level of precision and which can be reproduced in repeated analyses is referred to as the limit of quantitation. Thus, the baseline level for quantifying the total PCB concentration could be established at the LOD, the LOQ, or at an arbitrary level between these values.

The consensus proposal states that for any sample matrix with all resolvable gas chromatographic peaks below the limit of quantitation, the specified practical limit of detection for that medium will be assigned for those chromatographic peaks. CMA, EDF, and NRDC recommend that for each resolvable gas chromatographic peak, which is below the LOQ but above the LOD, the specified practical LOD for that medium would be the quantitated value for that peak. Thus, the consensus proposal recommends a baseline that is an arbitrary value below the LOQ.

In the Closed and Controlled Waste Manufacturing Processes Rule, EPA selected the LOQ in establishing the numerical cutoffs instead of the LOD. At that time, EPA concluded that it may be impossible to confirm the identity of the PCBs at the LOD. EPA concluded that a PCB concentration at or near the LOQ is needed to confirm the identity of the chlorinated biphenyls for compliance monitoring purposes.

EPA reaffirms these conclusions reached in the Closed and Controlled Waste Manufacturing Processes Rule. Therefore, EPA proposes that the baseline for quantitating PCBs be established at the LOQ.

IV. NOTICE OF DEFERRAL OF ACTION ON PCB EXEMPTION PETITIONS

A. Statutory Authority

Section 6(e)(3)(B) of TSCA permits the Administrator to grant by rule exemptions from the ban on the manufacture, processing, and distribution in commerce of PCBs, if the Administrator finds that "(i) an unreasonable risk of injury to health or environment would not result, and (ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl." EPA may set terms and conditions for an exemption and may grant an exemption for not more than one year.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur against the benefits to society from granting or denying each exemption. Specifically, EPA considers the effects of PCBs on human health and the environment, including the magnitude of PCB exposure to humans and the environment; and the benefits to society of granting an exemption and the reasonably ascertainable costs to a petitioner of denying an exemption petition.

To determine whether a petitioner has demonstrated good faith efforts, EPA considers the kind of exemption the petitioner is requesting, whether substitutes exist and are readily available, and whether the petitioner expended time and money to develop or search for a substitute. In each case, the burden is on the petitioner to show specifically what it did to substitute non-PCBs for PCBs or to show why it did not seek to substitute non-PCBs for PCBs.

B. Background

EPA's Interim Procedural Rules for PCB Manufacturing Exemptions, 40 CFR 750.10 *et seq.*, were published in the **Federal Register** of November 1, 1978 (43 FR 50905). These rules describe the required content of manufacturing exemption petitions and the procedures EPA will follow in rulemaking on these petitions.

In the **Federal Register** of January 2, 1979 (44 FR 106), EPA announced that petitioners who had previously filed manufacturing exemption petitions could continue manufacturing or importation activity for which they sought exemption until EPA acted on their petitions.

EPA's Interim Procedural Rules for PCB Processing and Distribution in Commerce Exemptions, 40 CFR 750.30 *et seq.*, were published in the **Federal Register** of May 31, 1979 (44 FR 31558). These rules describe the required content of processing and distribution in commerce exemption petitions and the procedures EPA will follow in rulemaking on these petitions.

EPA's proposed rule for PCB manufacturing exemptions, which addressed the 79 manufacturing exemption petitions received at that time, was published in the **Federal Register** of May 31, 1979 (44 FR 31564). Many of these petitions addressed the inadvertent manufacture of PCBs, the major subject of this rulemaking. EPA held a hearing and received comments on that rule. EPA included additional manufacturing exemption petitions and extended the reply comment period on the proposed rule in a notice published in the **Federal Register** of July 20, 1979 (44 FR 42727). EPA has not issued a final rule in that rulemaking proceeding.

In the **Federal Register** of March 5, 1980 (45 FR 14247), EPA applied the policy stated in the January 2, 1979 **Federal Register** notice to those petitioners who had filed manufacturing, processing, and distribution in commerce exemption petitions after December 1, 1978 (for manufacturing) and July 1, 1979 (for processing and distribution in commerce). In that notice, EPA required persons filing late petitions for exemption to show "good cause" why EPA should accept the petition. If a petitioner shows "good cause," EPA permits it to continue the activities for which it seeks exemption until EPA acts on the exemption petition, as long as the activities were underway before January 1, 1979 (for manufacturing) and before July 1, 1979 (for processing and distribution in commerce).

In June 1982, EPA sent a letter to each of approximately 400 petitioners (including the submitters of the 79 manufacturing petitions mentioned above) who had previously requested an exemption to manufacture, process, or distribute in commerce PCBs. Since the information in many of the petitions was old, EPA asked these petitioners to renew their petitions, if necessary, by submitting updated information. EPA received and accepted 172 exemption petitions to manufacture, process and distribute in commerce PCBs (including 164 renewed and eight newly filed petitions), which EPA evaluated according to the requirements of TSCA and the Interim Procedural Rules for PCB Exemptions. The remainder of the petitions were withdrawn by petitioners, dismissed by EPA when they were not renewed, or dismissed by EPA because the activities for which exemption was requested did not require an exemption.

EPA next issued a proposed rule entitled, "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, and Distribution in Commerce Exemption Petitions," which was published in the **Federal Register** of November 1, 1983 (48 FR 50486), which addresses these 172 exemption petitions. In that rule, EPA proposed to grant 49 petitions, deny 73 petitions, and defer action on 50 petitions. The 50 exemption petitions on which EPA proposed to defer action are

to manufacture, process, or distribute in commerce substances or mixtures inadvertently contaminated with 50 ppm or greater PCBs. EPA was aware that the ongoing PCB rulemaking described in Unit III of this preamble would affect the disposition of these 50 petitions.

Each of the petitions considered here, except for one petition submitted by Mobay Chemical Corp., is for activities that were underway before January 1, 1979 (for manufacturing) or July 1, 1979 (for processing and distribution in commerce). In accordance with EPA's January 2, 1979 **Federal Register** notice (44 FR 108) and its March 5, 1980 **Federal Register** notice (45 FR 14247), each of these petitioners (except Mobay Chemical Corp.) is permitted to continue the activities for which it seeks exemption until EPA acts on the exemption petition, because such activities were underway before the effective dates of the ban on PCBs. Mobay Chemical Corp. is not permitted to engage in the activities for which it seeks exemption until EPA acts on that exemption petition, because such activities were not underway before July 1, 1979.

C. Reasons for Deferral of Actions on Exemption Petitions

As described in other units of this preamble, EPA is setting new regulatory limits for the inadvertent manufacture, processing, distribution in commerce, and use of PCBs. EPA recognizes that these new regulatory limits will affect many of the 50 pending exemption petitions to manufacture, process, and distribute in commerce inadvertently generated PCBs. Some of the petitioners are engaged in activities that, because of the discounting for monochlorinated and dichlorinated biphenyls, involve concentrations of PCBs at levels below the new limits and, therefore, will no longer require an exemption. Other petitioners are engaged in activities that involve concentrations of PCBs at levels above the new limits and, therefore, will still require an exemption to continue their activities.

Each of the petitioners has submitted information in an attempt to demonstrate that granting an exemption would not result in an unreasonable risk of injury to health or the environment and to show good faith efforts to develop substitutes for PCBs. The information, however, was submitted before EPA decided to propose today's rule with its new regulatory cutoffs. If this rule is issued in substantially the same form as proposed, many of the exemptions may no longer be required. Consequently, EPA will defer action on the exemption petitions listed below until publication of the final rule.

EPA is hereby notifying each petitioner to review its activities to determine whether the final rule, if substantially the same as the proposed rule, will make an exemption unnecessary. If an exemption is still required, a petitioner must amend its petition with the necessary current information by the effective date of this rule. EPA intends to promulgate a final rule on inadvertently generated PCBs by July 1, 1984. The provisions of that rule will become effective 90 days after the final rule is issued. Each petitioner, therefore, will have until 90 days after the rule is issued to submit updated information to renew its petition.

In accordance with EPA's policy statement published in the **Federal Register** of March 5, 1980 (45 FR 14247), each petitioner that renews its exemption petition will be permitted to continue the activities for which it seeks exemption until EPA acts on the exemption petition, provided that the activities were underway before January 1, 1979 (for manufacturing) and July 1, 1979 (for processing and distribution in commerce).

If a petitioner does not renew its exemption petition by 90 days after the promulgation of the rule, EPA will assume that it no longer needs an exemption and will dismiss the exemption petition. The effect of such a dismissal is that the petitioner would not be allowed to continue the activities if it does not notify EPA of compliance with the new rule. The continuation of such activities would be a violation of section 15 of TSCA and would make the petitioner liable for penalties under section 16 of TSCA.

EPA recognizes that the new regulatory limits in this proposed rule are likely to affect other persons who have not yet submitted exemption petitions. Such persons may submit exemption petitions now or, if they prefer, during the 90 days between promulgation and the effective date of the final rule. The exemption petitions on which EPA is delaying action are listed below:

Manufacturing Exemptions

Aluminum Co. of America, Pittsburgh, PA 15219 (ME 3).
American Hoechst Corp., Somerville, NJ 08876 (ME 5).
Diamond Shamrock Corp., Pasadena, TX 77501 (ME 27).
Dow Chemical Co., Midland, MI 48640 (ME 29, 30, and 30.1).
General Electric Co., Fairfield, CT 06431 (ME 39).
Hilton-Davis Chemical Co., Division of Sterling Drug Inc., Cincinnati, OH 45237 (ME 50).
Honeywell, Inc., Waltham, MA 02154 (ME 51).
Olin Corp., Stamford, CT 06904 (ME 75).
PPG Industries, Inc., Pittsburgh, PA 15222 (ME 81 and 81.1).
SDS Biotech Corp., Painesville, OH 44077 (ME 28 and 28.1).
Stauffer Chemical Co., Westport, CT 06880 (ME 90).

Processing and distribution in Commerce Exemptions

Acme Printing Ink Co., Chicago, IL 60607 (PDE 164.1).
Aluminum Co. of America, Pittsburgh, PA 15219 (PDE 13).
American Can Co., Greenwich, CT 06830 (PDE 14).
American Cyanamid Co., Savannah, GA 31402 (PDE 16).
American Hoechst Corp., Somerville, NJ 08876 (PDE 70.5).
American Paper Institute, Inc., Washington, DC 20036 (PDE 89).
American Thermoplastics Corp., Subsidiary of Phillips Petroleum Co., Houston, TX 77020 (PDE 245.1).
Binney & Smith, Inc., Easton, PA 18042 (PDE 34).
Buckeye Printing Ink Co., Inc., Columbus, OH 43215 (PDE 164.2).
Chemical Specialties Manufacturers Association, Washington, DC 20036 (PDE 42).
Columbia Paint Corp., Huntington, WV 25728 (PDE 47).
Crown Metro, Inc., Greenville, SC 29606 (PDE 70.1).
Daicolor Division, Dainichiseika Color & Chemicals America, Inc., Pine Brook, NJ 07058 (PDE 58).
Dow Chemical Co., Midland, MI 48640 (PDE 64 and 67).
Dow Chemical Co., Plaquemine, LA 70764 (PDE 68).
Eastman Kodak Co., Eastman Chemicals Division, Kingsport, TN 37662 (PDE 70.6)
Forrest Paint Co., Eugene, OR 97402 (PDE 90).
Galaxie Chemical Corp., Paterson, NJ 07524 (PDE 95).
Goodyear Tire & Rubber Co., Akron, OH 44316 (PDE 102).
Hilton-Davis Chemical Co., Division of Sterline Drug Inc., Cincinnati, OH 45237 (PDE 70.4).
Ideal Toy Corp., Hollis, NY 11423 (PDE 70.3).
Inmont Corp., Clifton, NJ 07015 (PDE 123).
Minnesota Mining & Manufacturing Co., St. Paul, MN 55133 (PDE 157.2).
Mobay Chemical Corp., Dyes and Pigments Division, Union, NJ 07083 (PDE 157.10).
National Association of Chemical Distributors, Chicago, IL 60602 (PDE 162).
National Paint and Coatings Association, Washington, DC 20005 (PDE 167).
Prestige Printing Ink Co., Fort Worth, TX 76105 (PDE 70.2).
Reed Plastics Corp., Holden, MA 01520 (PDE 224).
Soap and Detergent Association, New York, NY 10016 (PDE 244).

Society of the Plastics Industry, Inc., New York, NY 10017 (PDE 245).
Uniroyal Chemical Co., Novel Polymers Group, Naugatuck, CT 06770 (PDE 283).
Uniroyal, Inc., Middlebury, CT 06749 (PDE 284).
U.S. Department of the Treasury, Bureau of Engraving and Printing, Washington, DC 20228 (PDE 288).
United States Printing Ink Co., East Rutherford, NJ 07073 (PDE 164.3).

V. PROPOSED AMENDMENT TO THE 1979 USE AUTHORIZATIONS FOR PCBS IN HYDRAULIC AND HEAT TRANSFER FLUID

A. Background

PCBs were manufactured for hydraulic and heat transfer systems for use in a variety of industries until 1972. The aluminum, copper, iron and steel forming industries used hydraulic systems with commercial PCB fluid. PCBs in heat transfer systems were used in the inorganic chemical, organic chemical, plastics and synthetics, and petroleum refining industries. High PCB levels apparently remained in these systems until at least 1979. In addition, some unknown quantity of unused PCB fluids was probably kept by facilities after production ceased in 1972 and used for topping off hydraulic and heat transfer systems.

Under section 6(e)(2) of TSCA, EPA may authorize the use of PCBs if the Agency finds that the use will not present an unreasonable risk of injury to health or the environment. In the PCB Ban Rule, EPA determined that the continued use of PCBs in hydraulic systems and heat transfer systems under certain conditions did not present an unreasonable risk. Therefore, in 1979, EPA authorized the non-totally enclosed use of PCBs at concentrations of 50 ppm or greater in hydraulic systems and in heat transfer systems (40 CFR 761.30 (d) and (e)). These use authorizations expire on July 1, 1984. In promulgating these use authorizations, EPA assumed that the conditions of those authorizations which required retrofilling with non-PCB fluids would reduce the PCB concentration levels in those systems to below 50 ppm by July 1, 1984.

EPA adopted a regulatory limit of 50 ppm PCBs in the PCB Ban Rule. This limit also applied to the use authorizations for heat transfer and hydraulic fluids. EPA believed that by July 1, 1984, under the conditions of the use authorizations, all heat transfer and hydraulic systems originally containing PCBs would have been retrofilled to reduce PCB levels to less than 50 ppm. With the overturning of the 50 ppm regulatory cutoff as a consequence of *EDF* v. *EPA*, the status of heat transfer systems and hydraulic systems with less than 50 ppm PCBs would have been placed in doubt after July 1, 1984. Systems with more than 50 ppm PCBs are unlawful after that date, because the use authorization expires then. Therefore, EPA is clarifying the status of these systems by authorizing the use of PCBs in these systems at concentrations of less than 50 ppm for their remaining useful lives. Thus, under this proposed rule, hydraulic and heat transfer systems cannot be filled (i.e., "topped off") with fluids containing 50 ppm or greater of PCBs.

To determine whether a risk from PCB use is unreasonable, EPA balances the probability that harm will occur from the use against the benefits to society of the proposed regulatory action. In determining whether these uses of PCBs at concentrations of less than 50 ppm present unreasonable risks, EPA considers the effects of PCBs on health and the environment, including the magnitude of PCB exposure to humans and the environment; the benefits of using PCBs; the availability of substitutes for PCB uses; and the economic impact resulting from the rule's effect upon the national economy, small business, technological innovation, the environment, and human health.

Based on the carcinogenicity risk assessment and the regulatory impact analysis conducted by the Agency, EPA has determined that the use of PCBs in hydraulic and heat transfer fluid at concentrations of less than 50 ppm does not present an unreasonable risk of injury to human health or the environment. Therefore, EPA proposes to amend the PCB Ban Rule to authorize for the remaining useful lives of these systems the use of PCBs in hydraulic and heat transfer fluid at concentrations of less than 50 ppm.

The Agency is also considering the option of raising the standard to the 100 ppm concentration level. While this option may not be as costly to industry as reducing PCB levels to below 50 ppm, this option appears to present a greater risk of injury to human health.

B. Human Health and Environmental Risks

In determining whether to amend 40 CFR 761.30 (d) and (e), EPA has generated exposure and risk assessments for these uses of PCBs. For a review of the general methodology for exposure and risk assessments and a general analysis of the health and environmental effects of PCBs, see Unit III.D of this preamble. Information related specifically to the use of PCB fluids in hydraulic and heat transfer systems is described below. Further details concerning the exposure assessment for these uses are included in volume IV of the support document entitled "Exposure Assessment for Incidentally Produced Polychlorinated Biphenyls." Finally, EPA has developed estimates of carcinogenic risks for persons exposed to PCBs in hydraulic and heat transfer systems at 50 ppm. Further details concerning the carcinogenic risk assessment for various exposure scenarios for these uses are included in the support document "Carcinogenic Risk Assessments of Polychlorinated Biphenyls."

Two categories of factors are particularly important to the exposure and carcinogenic risk assessments for these uses of PCBs: (1) The estimated contamination level, number, and size of PCB-contaminated hydraulic and heat transfer systems at the expiration deadline for these uses of PCBs under the PCB Ban Rule; and (2) the estimated number of workers potentially exposed to PCBs from contaminated systems during a period of exposure assumed to be 38.5 years. EPA inspection data were primarily used for developing estimates for these key assessment factors.

Worker exposure to leaked PCBs from heat transfer and hydraulic systems may occur through both inhalation and dermal absorption during machine operation and during maintenance and repair operations. EPA has estimated the maximum inhalation exposure to PCBs that volatilize from the leaked hydraulic or heat transfer fluid. The exposure assessment of PCB fluid that has volatilized from these systems includes considerations of evaporation rates, emission rates, "downwind" concentrations, and annual inhalation. These annual inhalation estimates have been developed for worker exposure during 40 hours per week and 48 weeks per year.

Occupational dermal exposure from these uses of PCBs has been calculated from several variables. These variables include annual PCB dermal exposure, the duration of exposure, the frequency of exposure, the PCB exposure level, the skin area exposed, the absorption rate of PCBs through the skin, liquid thickness on skin, the density of liquid, and the PCB concentration in the liquid.

Using preliminary risk calculations for machine operations, and maintenance and repair workers, EPA estimated the carcinogenic risk from long-term dermal and inhalation exposure to PCBs in hydraulic and heat transfer systems. The inhalation exposure scenarios resulted in estimated carcinogenic risks at extremely low levels (this effect

would be observed in only 1 in 100,000 or more people if this estimated risk is accurate). However, the dermal absorption scenarios have a higher estimated risk. In estimating the carcinogenic risk exposure to PCBs in hydraulic and heat transfer systems, EPA assumed a constant 50 ppm exposure each workday for a period of 38.5 years. These estimated risks are highly conservative and EPA believes that in actuality, the risks are much lower.

C. Regulatory Impact Analysis

EPA has developed a regulatory impact analysis for the reauthorization of these uses of PCBs. Two categories of engineering and economic data were developed for this analysis: (1) Information on the existing PCBs in use in hydraulic and heat transfer systems (presented as a distribution of the estimated number of contaminated systems by PCB concentration level); and (2) technical factors on the mechanics of PCB use in these systems (system fluid capacity, leakage and recycling rates, and the reduction efficiency for PCB elimination through draining and refilling with non-PCB fluids).

EPA has evaluated the various regulatory options by comparing the total and incremental costs for achieving different PCB concentration levels with the total and incremental pounds of PCBs removed in order to comply with each concentration level. Cost estimates were determined for average hydraulic and heat transfer systems attaining compliance with the various draining, fluid replacement, testing, and disposal requirements in the current PCB regulations (40 CFR 761.30 (d) and (e)) at each concentration level.

In its Regulatory Impact analysis (RIA), EPA considered four regulatory options: (1) Not reauthorizing any use of PCBs in hydraulic and heat transfer systems; (2) reauthorizing the use of PCBs in these systems at a 25 ppm concentration level; (3) reauthorizing the use of PCBs in these systems at PCB levels greater than 50 ppm; and (4) reauthorizing the use of PCBs in these systems at a 50 ppm concentration level.

In evaluating these regulatory options, EPA considered the costs involved in a mandatory removal of PCBs from hydraulic and heat transfer systems to concentration levels of less than 25 ppm. Mandatory immediate removal of PCBs on these systems to levels of less than 25 ppm would severely affect significant segments of the metal forming, die-casting, chemical, plastics and synthetics, and petroleum refining industries. In addition, technological factors may prevent an undetermined percentage of hydraulic and heat transfer systems from achieving an elimination of PCB residues below a 25 ppm concentration level. For reasons related to the internal geometry as well as operating and design characteristics of hydraulic and heat transfer systems, PCB residues tend to persist despite complete draining and refilling. Finally, EPA has concluded that an immediate removal of contaminated systems is not necessary to safeguard human health or the environment from high level risks arising from these uses of PCBs.

EPA has determined that compared to the reauthorization of these uses of PCBs at a 50 ppm concentration level, a 25 ppm performance standard for these systems would result in approximately 2,400 incremental pounds of PCBs removed from the environment. EPA also has determined that if the standard is relaxed to 100 ppm, the total estimated PCB poundage under the 100 ppm option is 4,000 pounds greater than if the 50 ppm option is selected. However, this 100 ppm option is less protective of human health than either the 25 or 50 ppm option given the predicted occupational exposures to PCBs from heat transfer and hydraulic systems.

The results of the RIA indicate that the 100 ppm option yields an incremental cost per PCB pound removed of $300. The incremental cost per pound removed with the 50 ppm standard is about $18,000. Selection of the 25 ppm option yields a cost of $37,000 per pound of PCB removed.

EPA is aware that the costs estimated in the RIA for this proposed rule are several orders of magnitude greater than the costs originally projected in 1979 for reducing PCB concentrations in heat transfer and hydraulic systems (44 FR 31534–31535). This discrepancy results from different assumptions in projecting the number of affected heat transfer and hydraulic systems and the volume capacity of those systems. According to the rulemaking record, a number of companies have been able technologically to reduce the concentrations of PCBs in heat transfer and hydraulic systems to meet the current 50 ppm standard.

EPA believes that industry can provide information to the Agency during the comment period that will improve the RIA. In particular, EPA is interested in learning about any technological difficulties that industry may have encountered in retrofilling their contaminated systems to reach the 50 ppm level. In addition, EPA is interested in any information on the costs of reducing PCB concentrations from 100 ppm to 50 ppm.

D. Availability of Substitutes for PCB Fluid in Hydraulic and Heat Transfer Systems

There exist numerous substitutes for PCBs in hydraulic and heat transfer fluids that have been successfully used by firms to lower the PCB concentration levels in their contaminated systems to less than 50 ppm. Included among the chemical compounds used in non-PCB substitutes for hydraulic fluid are: (1) Phosphate esters; (2) water/glycol solutions; and (3) water/oil emulsions. Water/glycol-based products constitute the leading non-PCB substitutes.

In addition, various non-PCB heat transfer fluids are available with the following chemical compositions: (1) Modified esters; (2) synthetic hydrocarbons; (3) polyaromatic compounds; (4) partially hydrogenated and mixed terphenyls; and (5) blends of diphenyls.

E. No Unreasonable Risk Determination

The Agency has concluded that the risks associated with these uses of PCBs at concentrations of less than 50 ppm are outweighed by the benefits of the continued use of contaminated hydraulic and heat transfer systems, and the costs that are avoided by not requiring the further removal of the PCBs remaining in these systems at less than 50 pm after July 1, 1984. Therefore, EPA concludes that authorizing the use of PCBs in these systems at concentrations of less than 50 ppm does not present an unreasonable risk of injury to health or the environment for the following reasons:

1. The proposed reauthorization of the use of PCBs in hydraulic and heat transfer fluid at a concentration level of less than 50 ppm would adequately safeguard workers from risks to human health. In assessing the carcinogenic risk from long-term exposure to PCBs from contaminated systems at a 50 ppm level, EPA assumed daily exposure over a work life of approximately 38.5 years. Thus, estimated risks for these exposure scenarios, particularly dermal absorption, were relatively high. However, these risk numbers are highly conservative and EPA believes that in actuality, the risks are much lower.

2. This proposed reauthorization would impose no costs additional to those costs incurred under the use conditions in the PCB Ban Rule. According to the Agency's regulatory impact analysis, without any reauthorization, the impact would be severe, since all contaminated systems

could conceivably be removed from service and disposed of under a strict enforcement of this use authorization.

3. Compared with other options, including considerations for a 25 ppm PCB concentration level for these uses, this reauthorization at a 50 ppm level would be the most cost-effective option. According to the Agency's regulatory impact analysis, compared with a PCB concentration level of 50 ppm for these uses, a 25 ppm performance standard for affected systems would result in approximately 2,400 incremental pounds of PCBs removed from the environment for incremental costs of at least $87 million.

4. The use of PCBs in contaminated hydraulic and heat transfer systems at a 50 ppm concentration level would avoid severe economic consequences for significant segments of the metal forming, die casting, chemical, plastics and synthetics, and petroleum refining industries.

5. There exist adequate non-PCB hydraulic and heat transfer fluids for use in contaminated systems to lower the PCB concentration level at least to 50 ppm.

6. The elimination of PCBs from contaminated hydraulic and heat transfer systems may not be technologically feasible through existing retrofill technologies. For reasons related to the internal geometry, and operating and design characteristics of these systems, PCB residues tend to persist despite draining and retrofilling.

VI. RELATIONSHIP TO OTHER PCB REGULATIONS

The major focus of this proposed rule is the control of the manufacture, processing, distribution in commerce, use, and disposal of PCBs that are not now regulated under other EPA rules. This unit reviews other EPA regulations to control PCBs, as well as other relevant Federal rules. Previous units of this preamble have already discussed the relationship of this rule to the Closed and Controlled Waste Manufacturing Processes Rule.

A. PCB Disposal Rule

The final PCB disposal rule was published as part of the comprehensive PCB Ban Rule in the **Federal Register** of May 31, 1979 (44 FR 31514). In summary, the PCB disposal rule states that PCBs in concentrations of less than 50 ppm are not required to be disposed of in any special manner; liquid PCBs in concentrations between 50 ppm and 500 ppm are required to be disposed of in an incinerator that complies with the standards in 40 CFR 761.70, in a chemical waste landfill, or in a high efficiency boiler; nonliquid PCBs are required to be disposed of in an incinerator that complies with the standards in 40 CFR 761.70 or in a chemical waste landfill; and liquid PCBs in concentrations of 500 ppm or greater are required to be disposed of in an incinerator that complies with the standards in 40 CFR 761.70.

Section 761.190 of this proposed rule does not alter the disposal standards in the PCB Ban Rule. This section provides that any process waste containing PCBs at concentrations of 50 ppm or greater, which are present as a result of inadvertent generation or recycling, must comply with the incineration, landfilling, and storage for disposal provisions of the PCB Ban Rule. The discounting provisions for monochlorinated and dichlorinated biphenyls in § 761.3(jj) of this proposed rule apply to the disposal requirements of the proposed § 761.190. This discounting provision is applicable only to inadvertently generated PCBs.

B. Amendments to the PCB Electrical Equipment Rule

Authorizations for the use and servicing and transformers, capacitors, electromagnets, and other electrical equipment with fluid containing 50 ppm or greater PCBs were promulgated in the Electrical Equipment Rule published in the **Federal Register** of August 25, 1982 (47 FR 37342). These authorizations amended the PCB Ban Rule, which included conditions for the servicing of transformers and electromagnets. No section of this proposed rule affects any provision of the Electrical Equipment Rule.

C. Regulations Under the Federal Pesticide and Food, Drug, and Cosmetic Statutes

Two Federal statutes that affect chemicals which may contain inadvertently generated PCBs are the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, and the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 321 *et seq.* If the manufacture, processing, distribution in commerce, or use of a substance is regulated under either FIFRA or FFDCA, the substance is not subject to regulation under TSCA insofar as the substance is manufactured, processed, or distributed in commerce for use as a pesticide, food, food additive, drug, cosmetic, or device. If a substance has multiple uses, only some of which are regulated under FIFRA or FFDCA, the manufacture, processing, distribution in commerce, and use of the substance for the remaining uses would come within the jurisdiction of TSCA.

The Agency has determined that raw materials, intermediates, and inert ingredients produced or used in the manufacture of pesticides are substances or mixtures that may be regulated under TSCA. Furthermore, while a chemical manufactured for use as pesticide is regulated under FIFRA, a chemical that is manufactured for undetermined purposes is regulated under TSCA. This has particular applicability to § 761.1(f) of this proposed rule. That section refers to PCBs generated as unintentional impurities in excluded manufacturing processes, as defined in § 761.3(kk), at the time they are first manufactured until they are identified as part of a pesticide product.

EPA has determined that since the Food and Drug Administration (FDA) considers intermediates or catalysts to be components of a food, food additive, drug, cosmetic, or device regulated under FFDCA, chemicals used as intermediates or catalysts for these purposes are not regulated under TSCA. As soon as the FDA regulates a product, its manufacture, processing, or distribution in commerce solely for an FDA-regulated use is excluded from the jurisdiction of TSCA. Hence, no provisions of this proposed rule will apply to the manufacture, processing, or distribution in commerce of intermediates or catalysts with PCBs generated as unintentional impurities solely for an FDA-regulated use.

D. PCB Effluent Standards Under the Clean Water Act

Under section 307(a) of the Clean Water Act, 33 U.S.C. 1317, EPA promulgated final effluent standards for the discharge of PCBs into navigable waters. These PCB effluent standards, promulgated at 40 CFR 129.105, were published in the **Federal Register** of February 2, 1977 (42 FR 6532). These effluent standards apply to manufacturers of intentionally produced PCB fluid (i.e., Aroclor products), manufacturers of electrical capacitors, and manufacturers of electrical transformers. These rules also set an ambient water criterion for PCBs in navigable waters of 0.001 µg/l.

As applied to the manufacturing processes specified in 40 CFR 129.105, these effluent standards prohibit the discharge of Aroclor PCBs as process wastes. The analytical method used in measuring PCB concentrations in effluent discharges and determining compliance with the effluent standard is

an analytical method for measuring Aroclor PCBs.

In § 761.3(kk)(4) of this proposed rule, EPA has set the water effluent standard for incidentally generated PCBs in manufacturing processes. The proposed effluent standard for this category of PCBs is set at the LOQ, which is 0.1 ppm of PCBs (after discounting for monochlorinated or dichorinated biphenyls, if appropriate) for resolvable gas chromatographic peak per liter of water discharged. This standard is restricted to the regulation of inadvertently generated PCBs under section 6(e) of TSCA and does not affect the applicability of the effluent standards for intentionally manufactured PCB fluid measured as Aroclor PCBs in 40 CFR 129.105. In addition, the discounting provisions for monochlorinated and dichlorinated biphenyls proposed in 40 CFR 761.3(jj) do not affect the applicability of the PCB effluent standards for intentionally manufactured PCB fluid in 40 CFR 129.105.

E. Effluent Limitations and New Source Performance Standards Under the Clean Water Act for the Pulp, Paper, and Paperboard Industry

On November 18, 1982, EPA proposed effluent limitations based on "best available technology" (BAT) and "new source performance standards" under the Clean Water Act, 33 U.S.C. 1251 *et seq.*, for the discharge of PCBs into navigable waters of the United States from mills in the pulp, paper, and paperboard industry. This proposed rule was published in the Federal Register of November 18, 1982 (47 FR 52066), and presented technology-based standards for the use of a commercial mixture, Aroclor 1242, in the generation of fine paper and tissue paper at mills in the deink subcategory.

EPA has determined that some wastepapers used in the production of fine paper and tissue paper at mills in the deink subcategory are contaminated with Aroclor 1242. Aroclor 1242 was once used in the manufacture of carbonless copy paper. PCB-contaminated papers were recycled and now PCBs contaminate a portion of the wastepaper used in the manufacture of fine paper and tissue paper from deinked wastepaper. This leads to the discharge of PCB-containing wastewaters from many mills in the deink subcategory.

The proposed standards for effluent limitations of Aroclor 1242 based on BAT for this industrial subcategory are: (1) 0.00014 kilograms per thousand kilograms (kg/kkg) and 1.4 μg/l for production of fine paper; and (2) 0.00018 kg/kkg and 1.8 μg/l for the production of tissue paper. The proposed new source performance standards for Aroclor 1242 for this industrial subcategory are: (1) 0.00011 kg/kkg and 1.6 μg/l for the production of fine papers; and (2) 0.00014 kg/kkg and 1.8 μg/l for the production of tissue paper. These standards are based on maximum discharge limits for one day.

If promulgated as a final rule, these proposed effluent standards and new source performance standards will not modify any provisions of this proposed rule on uncontrolled PCBs. These proposed standards are solely applicable to activities controlled by the Clean Water Act.

F. Regulatory Developments Under Section 405 of the Clean Water Act for the Regulation of PCB-Contaminated Sludge

Section 405 of the Clean Water Act, 33 U.S.C. 1345, requires EPA to issue regulations that will identify uses for sludge, specify factors to be considered in determining measures and practices applicable to such uses, and identify concentrations of pollutants which interfere with such uses. One set of regulations has been issued by EPA under the authority of section 405, the land disposal criteria for solid waste facilities (40 CFR Part 257), which were promulgated in 1979 under the dual authority of the Clean Water Act and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 *et seq.*

A wide range of concentrations of chemical constituents, including recycled PCBs, may be present in municipal sludges. A variety of factors influence the composition of sludges. These municipal sludges generated from publicly-owned treatment woks have been processed as fertilizer and other soil nutrient products.

Although there are no specific standards under 40 CFR Part 761 for the use of PCB-contaminated sludge in soil nutrient products, 40 CFR 761.60(a)(5) presents disposal requirements for dredged materials and municipal sewage treatment sludges. Sludge with concentrations of 50 ppm or greater PCBs must be disposed of in an incinerator that complies with 40 CFR 761.70, in a chemical waste landfill that complies with 40 CFR 761.75 or disposed of in an alternate method approved by the Regional Administrator (40 CFR 761.60(a)(5)). Solid wastes containing PCBs in concentrations of less than 50 ppm may be subject to 40 CFR 257.3–5(b) when they are applied to land used for producing animal feed. EPA requests comments from interested parties on this issue.

VII. EXECUTIVE ORDER 12291

Under Executive Order 12291, issued February 17, 1981, EPA must determine whether a rule is a "major rule" and, therefore, subject to the requirement that a regulatory impact analysis be prepared. EPA has concluded that this proposed rule is not a major rule as the term is defined in section 1(b) of the Executive Order.

EPA had determined that this proposed rule is not "major" under the criteria of section 1(b), because the annual effect of the rule on the economy would be less than $100 million; it would not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it would not result in any significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States enterprises to compete with foreign enterprises in domestic or foreign markets. If promulgated, this proposed rule would allow certain manufacturing and recyling of PCBs that would otherwise be prohibited by section 6(e) of TSCA. In addition, this proposed rule would allow the use of PCBs in certain hydraulic and heat transfer systems. Therefore, this proposed rule would reduce the overall costs and economic impact of section 6(e) of TSCA.

This proposed rule would exclude certain manufacturing processes from statutory requirements to file annual petitions for exemption under section 6(e)(3)(B) of TSCA. EPA has estimated in the regulatory impact analysis for this proposed rule that resulting cost savings from this rule would range from $950 million to $5.6 billion over the next 10 years. In addition, the proposed amendment to the PCB Ban Rule would authorize for the remaining useful lives of the systems the use of PCBs in hydraulic and heat transfer fluid at concentrations of less than 50 ppm.

Although this proposed rule is not a major rule, EPA has prepared to the extent possible, a Regulatory Impact Analysis using the guidance in the Executive Order. This proposed rule was submitted to the Office of Management and Budget (OMB) prior to publication, as required by the Executive Order.

VIII. REGULATORY FLEXIBILITY ACT

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator may certify that a rule will not, if promulgated, have a significant impact on a substantial

number of small entities and, therefore, does not require a regulatory flexibility analysis.

This proposed rule would exclude certain manufacturing processes from statutory requirements to file annual petitions for exemption under section 6(e)(3)(B) of TSCA. In addition, the proposed rule would allow the indefinite use of PCBs in hydraulic and heat transfer fluid with concentration levels of less than 50 ppm.

For those persons who would qualify under the conditions of this proposed rule, the effect of the rule would be the avoidance of costs associated with section 6(e) of TSCA, and EPA regulations at 40 CFR Part 761. Since EPA expects this proposed rule to have no negative economic effect to any business entity, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities.

IX. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, authorizes the Director of OMB to review certain information collection requests by Federal agencies. EPA has determined that the recordkeeping, reporting, and certification requirements of this proposed rule constitute a "collection of information," as defined in 44 U.S.C. 3502(4). The information collection requirements in this proposed rule (summarized in Unit III.H of this preamble) have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB marked ATTENTION: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

X. OFFICIAL RULEMAKING RECORD

In accordance with the requirements of section 19(a)(3) of TSCA, EPA is publishing the following list of documents, which constitutes the record of this proposed rulemaking. A supplementary list or lists may be published any time on or before the date the final rule is issued. However, public comments, the transcript of the rulemaking hearing, or submissions made at the rulemaking hearing or in connection with it will not be listed, because these documents are exempt from **Federal Register** listing under section 19(a)(3). A full list of these materials will be available on request from EPA's TSCA Assistance Office listed under **"FOR FURTHER INFORMATION CONTACT."**

A. Previous Rulemaking Records

(1) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Disposal and Marking Rule," Docket No. OPTS–68005, 43 FR 7150, February 17, 1978.

(2) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions Rule," 44 FR 31514, May 31, 1979.

(3) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Proposed Rulemaking for PCB Manufacturing Exemptions," Docket No. OPTS–66001, 44 FR 31564, May 31, 1979.

(4) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Electrical Equipment," Docket No. OPTS–62015, 47 FR 37342, August 25, 1982.

(5) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manfacturing Processes," Docket No. OPTS–62017, 47 FR 46980, October 21, 1982.

(6) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Amendment to Use Authorization for PCB Railroad Transformers," Docket No. OPTS–62020, 48 FR 124, January 3, 1983.

(7) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, and Distribution in Commerce Exemptions," Docket No. OPTS–66008, 48 FR 50486, November 1, 1983.

(8) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; PCBs in Concentrations Below Fifty Parts Per Million," Docket No. OPTS–62018, 46 FR 27619, May 20, 1981.

B. Federal Register Notices

(9) 43 FR 50905, November 1, 1978, USEPA, "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Interim Procedural Rules for Polychlorinated Biphenyls (PCBs) Ban Exemption."

(10) 44 FR 108, January 2, 1979, USEPA, "Polychlorinated Biphenyls (PCBs); Policy for Implementation and Enforcement."

(11) 44 FR 31558, May 31, 1979, USEPA, "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Interim Procedural Rules for Exemptions from the Polychlorinated Biphenyl (PCB) Processing and Distribution in Commerce Prohibitions."

(12) 44 FR 31564, May 31, 1979, USEPA, "Polychlorinated Biphenyls (PCBs); Proposed Rulemaking for PCB Manufacturing Exemptions."

(13) 44 FR 42727, July 20, 1979, USEPA, "Proposed Rulemaking for Polychlorinated Biphenyls (PCBs); Manufacturing Exemptions; Notice of Receipt of Additional Manufacturing Petitions and Extension of Reply Comment Period."

(14) 45 FR 14247, March 5, 1980, USEPA, "Polychlorinated Biphenyls (PCBs); Statement of Policy on All Future Exemption Petitions."

(15) 45 FR 29115, May 1, 1980, USEPA, "Polychlorinated Biphenyls (PCBs); Expiration of the Open Border Policy for PCB Disposal."

C. Support Documents

(16) CMA, EDF, NRDC, "Recommendation of the Parties for a Final EPA Rule on Inadvertent Generation of PCBs," April 13, 1983.

(17) USEPA, OPTS, EED, "Draft Report: Estimation of Environmental Concentrations of Incidentally Generated Polychlorinated Biphenyls" (July 16, 1982).

(18) USEPA, OPTS, EED, "Draft Report: Modeling of PCBs in Ground Water" (July 14, 1983).

(19) USEPA, OPTS, EED, "Polychlorinated Biphenyls in Human Adipose Tissue and Mother's Milk" (November 12, 1982).

(20) USEPA, OPTS, EED, Draft Final Report: Exposure Assessment for Incidentally Produced Polychlorinated Biphenyls (PCBs), Volumes I–IV" (August 15, 1983).

(21) USEPA, OPTS, EED, "Carcinogenic Risk Assessments of Polychlorinated Biphenyls (PCBs)" (September 1, 1983).

(22) USEPA, OPTS, EED, "Quantitative Risk Assessment of Reproductive Risks Associated with Polychlorinated Biphenyl (PCB) Exposure" (September 1, 1983).

(23) USEPA, OPTS, HERD, "Environmental Risk and Hazard Assessments for Various Isomers of Polychlorinated Biphenyls (Monochlorobiphenyl through Hexachlorobiphenyl and Decachlorobiphenyl)" (September 1, 1983).

(24) USEPA, OPTS, ETD, "Regulatory Impact Analysis of the Proposed Rule Regulating Inadvertent PCB Generation

from Uncontrolled Sources, Volumes I–II" (September 1983).

(25) USEPA, OPTS, EED, "Regulatory Impact Analysis of PCB Use Authorizations for Hydraulic and Heat Transfer Systems" (September 1983).

(26) USEPA, OPTS, EED, "Guidance Document on Sampling and Sample Selection for Uncontrolled PCBs" (1983).

(27) USEPA, OPTS, EED, "Estimation of Releases from Spills of Inadvertently Produced PCBs" (April 1982).

(28) USEPA, OPTS, EED, "Summary of Organic Chemical Product Classes Potentially Containing Inadvertently Generated PCBs (December 1982).

(29) USEPA, OPTS, EED, "Organic Chemical Processes Leading to Generation of Incidental Polychlorinated Biphenyls" (February 10, 1983).

(30) USEPA, OPTS, EED, Letter from John H. Craddock, Monsanto Industrial Chemicals Company to Michael Phillips, EPA (June 10, 1983).

(31) USEPA, OPTS, EED, Telephone Communication between Sherell Sterling, EPA, and Tim Hardy, Kirkland and Ellis, "Discounting Factors for Monochlorinated and Dichlorinated Biphenyls" (August 8, 1983).

(32) USEPA, OPTS, EED, Telephone Communication between Sherell Sterling, EPA, and Ellen Silbergeld, EDF, "Discounting Factors for Monochlorinated and Dichlorinated Biphenyls" (August 3, 1983).

(33) USEPA, OPTS, EED, Letter from Daniel F. Meyer, Dow Corning Corporation to William J. Gunter, EPA (September 29, 1983).

List of Subjects in 40 CFR Part 761

Hazardous materials, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

(Sec. 6, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605))

Dated: December 1, 1983.

William D. Ruckelshaus,

Administrator.

PART 761—[AMENDED]

Therefore, it is proposed that 40 CFR Part 761 be amended as follows:

1. In §761.1, paragraphs (b) and (f) are revised to read as follows:

§ 761.1 Applicability.

* * * * *

(b) This part applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs or PCB Items. Unless otherwise specifically provided in §§ 761.1(f) and § 761.3 (jj), (kk), and (oo) the terms PCB and PCBs are used to refer to any chemical substances and combinations of substances that contain 50 ppm (on a dry weight basis) or greater of PCBs, as defined in § 761.3(s). Any chemical substance or combinations of substances that contain less than 50 ppm PCBs because of any dilution are included as PCBs unless otherwise specifically provided. Substances that are regulated by this Part include, but are not limited to, dielectric fluids, contaminated solvents, oils, waste oils, heat transfer fluids, hydraulic fluids, paints, sludges, slurries, dredge spoils, soils, materials contaminated as a result of spills, and other chemical substances or combination of substances, including impurities and byproducts.

* * * * *

(f) Unless and until superseded by any new medium-specific regulations:

(1) Persons who inadvertently manufacture or import PCBs generated as unintentional impurities in excluded manufacturing processes, as defined in § 761.3(kk), are exempt from the requirements of Subparts B and D, provided that such persons further comply with §§ 761.185, 761.187, 761.190, and 761.193.

(2) Persons who process, distribute in commerce, or use products containing PCBs as a result of inadvertent generation of PCBs are exempt from the requirements of Subparts B and D, provided that such persons comply with §§ 761.190 and 761.193.

(3) Persons exempt from the requirements of Subparts B and D of Part 761 are:

(i) Persons who process, distribute in commerce, or use recycled PCBs, as long as any process waste containing PCBs at concentrations greater than 50 parts per million is stored for incineration or landfilling in accordance with the requirements of § 761.65(b)(1), and incinerated or landfilled in accordance with the requirements of §§ 761.60 and 761.75;

(ii) Persons who import, process, distribute in commerce or use chemicals containing PCBs present as a result of recycling PCBs as long as records of any actual monitoring of PCB concentrations are maintained for a period of three years after a process ceases operation or importing ceases, or for seven years, whichever is shorter. Monitoring records maintained must contain:

(A) The method of analysis.

(B) The results of the analysis, including data from the Quality Assurance Plan.

(C) Description of the sample matrix.

(D) The name of the analyst or analysts.

(E) The date and time of the analysis.

(F) Numbers for the lots from which the samples are taken; and

(iii) Persons who process, distribute in commerce, or use recycled PCBs and release to products, air, and water recycled PCBs as long as they meet the requirements of paragraphs (f)(3)(iii) (A) through (C) of this section, or persons who import products containing recycled PCBs as long as they meet the requirements of paragraphs (f)(3)(iii) (A) and (B) of this section.

(A) The concentration of recycled PCBs in products leaving any processing site or imported into the United States must have an annual average of less than 25 ppm, with a 50 ppm maximum.

(B) The concentration of recycled PCBs in consumer products with a high exposure potential leaving the processing site or imported into the United States must be less than 5 ppm. Consumer products that are controlled by this provision are deodorant bars and soaps, and plastic building materials and products.

(C) The release of recycled PCBs at the point at which emissions are vented to ambient air from the processing site must be less than 10 ppm.

2. In § 761.3, paragraph (nn) is removed, paragraphs (jj) and (kk) are revised, and paragraph (oo) is added to read as follows:

§ 761.3 Definitions.

* * * * *

(jj) For purposes of §§761.1(f) (1) and (2), 761.3(kk), 761.185, 761.190, and 761.193, "PCBs" means the total PCBs calculated following division of the quantity of monochlorinated biphenyls by 50 and dichlorinated biphenyls by 5. In determining the quantity of PBCs, the analytical methods used shall not quantitate the value of resolvable chromatographic peaks below the limits of quantitation for each medium.

(kk) "Excluded manufacturing process" means a manufacturing process in which PBCs, as defined in § 761.3(jj), are inadvertently generated and from which releases to products, air, and water meet the requirements of §§ 761.3(kk) (1), (2), (3) and (4), or the importation of products containing PBCs as unintentional impurities, which products meet the requirements of §§ 761.3(kk) (1) and (2).

(1) The concentration of PBCs in products leaving any manufacturing site or imported into the United States must have an annual average of less than 25 parts per million (ppm), with a 50 ppm maximum.

(2) The concentration of PBCs in consumer products with a high exposure potential leaving the manufacturing site or imported into the United States must be less than 5 ppm. Consumer products

that are controlled by this provision are deodorant bars and soaps, and plastic building materials and products.

(3) The release of inadvertently generated PBCs at the point at which emissions are vented to ambient air must be less than 10 ppm.

(4) The amount of inadvertently gererated PBCs added to water discharged from a manufacturing site must be less than 100 micrograms per resolvable gas chromatographic peak per liter of water discharged.

* * * * *

(nn) [Reserved]

(oo) "Recycling PCBs" means processing, distribution in commerce, and use of intentionally manufactured PCBs that may enter a manufacturing process as PCB-contaminated raw materials and are processed, distributed in commerce, and used.

3. In § 761.30, paragraphs (d) and (e) are revised to read as follows:

§ 761.30 Authorizations

* * * * *

(d) *Use in heat transfer systems.* After July 1, 1984, intentionally manufactured PCBs may be used in heat transfer systems in a manner other than a totally enclosed manner at a concentration level of less than 50 ppm.

(e) *Use in hydraulic systems.* After July 1, 1984, intentionally manufactured PCBs may be used in hydraulic systems in a manner other than a totally enclosed manner at a concentration level of less than 50 ppm.

4. Section 761.185 is revised to read as follows:

§ 761.185 Certification program and retention of records by importers and persons generating PCBs in excluded manufacturing processes.

(a) In addition to meeting the basic requirements of § 761.3(kk), manufacturers with processes inadvertently generating PCBs and importers or products containing inadvertently generated PCBs must report to EPA, by filing a document as described in paragraph (b) of this section, any excluded manufacturing process or imports for which the concentration of PCBs in products leaving the manufacturing site or imported is greater than 2 micrograms per gram for any resolvable gas chromatographic peak. Such reports must be filed within 90 days after promulgation of this regulation or, if no processes or imports require reports at that time, within 90 days of having processes or imports for which such reports are required.

(b) Persons required to report by paragraph (a) of this section must transmit a letter notifying EPA of the number, the type, and the location of excluded manufacturing processes in which PCBs are generated, or of imports in which the concentration of PCBs in products leaving any manufacturing site or being imported is greater than 2 micrograms per gram (2 ppm) for any resolvable gas chromatographic peak. Such persons must also certify:

(1) Their compliance with all requirements of § 761.1(f), including applicable requirements for air and water releases and process waste disposal.

(2) Whether determinations of compliance are based on actual monitoring of PCB levels or on theoretical assessments.

(3) That such determinations of compliance are being maintained.

(4) If the determination of compliance is based on a theoretical assessment, the letter must also notify EPA of the estimated PCB concentration levels generated and released.

(c) Any person who reports pursuant to paragraph (a) of this section:

(1) Must have performed either a theoretical analysis or actual monitoring of PCB concentrations.

(2) Must maintain for a period of three years after a process ceases operations or importing cases, or for seven years, whichever is shorter, records containing the following information:

(i) *Theoretical analysis.* (A) The reaction or reactions believed to be generating PCBs, the levels of PCBs generated, and the levels of PCBs released.

(B) The basis for all estimations of PCB concentrations.

(C) The name and qualifications of the person or persons performing the theoretical analysis; or

(ii) *Actual monitoring.* (A) the method of analysis.

(B) The results of the analysis, including data from the Quality Assurance Plan.

(C) Description of the sample matrix.

(D) The name of the analyst or analysts.

(E) The date and time of the analysis.

(F) Numbers for the lots from which the samples are taken.

(d) The certification required by paragraph (b) of this section must be signed by a responsible corporate officer. This certification must be maintained by each facility or importer for a period of three years after a process or importing ceases operation, or for seven years, whichever is shorter, and must be made available to EPA upon request. For the purpose of this section, a responsible corporate officer means:

(1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation; or

(2) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(e) Any person signing a document under paragraph (d) of this section shall also make the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate information. Based on my inquiry of the person or persons directly responsible for gathering information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for falsifying information, including the possibility of fines and imprisonment for knowing violations.
>
> Dated: _____
>
> Signature: _____

(f) This report must be submitted to the Director, Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Attention: Chief, Chemical Regulation Branch within 90 days of issuing this regulation or 90 days of starting up processes or commencing importation of PCBs. For purposes of § 761.185, the term PCBs is defined by § 761.3(jj).

(g) This certification process must be repeated whenever process conditions are significantly modified to make the previous certification no longer valid.

5. Section 761.187 is added to read as follows:

§ 761.187 Reporting by persons generating PCBs in excluded manufacturing processes.

In addition to meeting the basic requirements of §§ 761.1(f) and 761.3(kk), PCB-generating manufacturing processes or importers of PCB-containing products shall be considered "excluded manufacturing processes" only if the owner/operator or importer reports the following data to EPA:

(a) The total quantity of PCBs in product from excluded manufacturing processes leaving any manufacturing site in any calendar year when such quantity exceeds 0.0025 percent of that site's rated capacity for such manufacturing processes as of (the date this regulation is promulgated); or the

total quantity of PCBs imported in any calendar year when such quantity exceeds 0.0025 percent of the average total quantity of such product containing PCBs imported by such importer during the years 1978, 1979, 1980, 1981 and 1982.

(b) The total quantity of inadvertently generated PCBs released to the air from excluded manufacturing processes at any manufacturing site in any calendar year when such quantity exceeds 10 pounds.

(c) The total quantity of inadvertently generated PCBs released to water from excluded manufacturing processes from any manufacturing site in any calendar year when such quantity exceeds 10 pounds.

(d) These reports must be submitted to the Director, Office of Toxic Substances, Attention: Chief, Chemical Regulation Branch at the address given in § 761.185(f).

(e) For purposes of paragraphs (a), (b), and (c) of this section, the term "PCBs" is defined by § 761.3(jj).

6. Section 761.190 is added to read as follows:

§ 761.190 Process waste disposal by generators and processors of chemical substances containing inadvertently generated PCB impurities.

Persons who manufacture, process distribute in commerce, or use chemicals containing PCBs present as a result of inadvertent generation or recycling must, for any process waste containing PCBs at concentrations greater than 50 parts per million, incinerate or landfill such waste in accordance with the requirements of §§ 761.60 and 761.75, and store such waste for incineration of landfilling in accordance with the requirements of § 761.65(b)(1).

7. Section 761.193 is added to read as follows:

§ 761.193. Maintenance of monitoring records by persons who import, manufacture, process, distribute in commerce, or use chemicals containing inadvertently generated PCBs.

(a) Persons who import, manufacture, process, distribute in commerce, or use chemicals containing PCBs present as a result of inadvertent generation or recycling who perform any actual monitoring of PCB concentrations must maintain records of any such monitoring for a period to three years after a process ceases operation or importing cases, or for seven years, whichever is shorter.

(b) Monitoring records maintained pursuant to paragraph (a) of this section must contain:

(1) The method of analysis.

(2) The results of the analysis, including data from the Quality Assurance Plan.

(3) Description of the sample matrix.

(4) The name of the analyst or analysts.

(5) The date and time of the analysis.

(6) Numbers for the lots from which the samples are taken.

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federal register

Thursday
December 8, 1983

Part V

Department of the Interior

Fish and Wildlife Service

Review for Species Classified as Endangered or Threatened in 1978

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Review for Species Classified as Endangered or Threatened in 1978

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Endangered Species Act of 1973, as amended, requires the Service to conduct a review of all listed species at least once every 5 years. The purpose of this action is to ensure that the listing accurately reflects the most current status of the listed species. In order to aid in discharging this responsibility, the Service is requesting comments and appropriate data which might document the need to delist or reclassify any of the selected species of Endangered or Threatened wildlife and plants listed below. If as a result of this review, the present classification of Endangered or Threatened is not consistent with current evidence, the Service may propose changes in such classification accordingly.

DATES: In order to be considered in this review, comments must be received no later than April 6, 1984.

ADDRESSES: Each species on the list below has a U.S. Fish and Wildlife Service Office (FWS) identified for receipt of comments:

1. Regional Director, Region 1 (ARD/FA), USFWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.
2. Regional Director, Region 2 (ARD/AFF), USFWS, 500 Gold Avenue SW., P.O. Box 1306, Albuquerque, New Mexico 87103.
3. Regional Director, Region 3 (ARD/AFF), USFWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.
4. Regional Director, Region 4 (ARD/FA), USFWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303.
5. Regional Director, Region 5 (ARD/FA), USFWS, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.
6. Regional Director, Region 6 (ARD/FA), USFWS, 134 Union Boulevard, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.
7. Associate Director—Federal Assistance, USFWS, Department of the Interior, Washington, D.C. 20240.

Comments and materials received under this notice of review will be available for public inspection at the appropriate office (see addresses above and the list of species below) by appointment during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 50 CFR 17.12 (plants). The most recent publication of such lists was in the **Federal Register** of July 27, 1983 (48 FR 34182-34196). The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, and 50 CFR 424.20 require the Service to conduct a review of each listed species at least once every 5 years. Species which are to be considered under the present review are listed below. Species listed during 1978 which subsequently have been affected by rules reclassifying all or significant parts of their populations are not included in this notice.

Definitions

The following definitions are provided to assist those persons who contemplate submitting information regarding the status of the species listed below:

1. "Critical Habitat" means (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.
2. "Endangered" means any species which is in danger of extinction throughout all or a significant portion of its range.
3. "Species" includes any species or subspecies of fish or wildlife or plant, and any distinct population segment of any species or subspecies of a vertebrate which is capable of interbreeding when mature.
4. "Threatened" means any species which is likely to become an Endangered species within the foreseeable future throughout all or a significant portion of its range.

A species is determined to be Endangered or Threatened because of any of the following factors:

a. The present or threatened destruction, modification, or curtailment of its habitat or range;

b. Overutilization for commercial, recreational, scientific, or educational purposes;

c. Disease or predation;

d. The inadequacy of existing regulatory mechanisms; or

e. Other natural or manmade factors affecting its continued existence.

The factors considered when removing a species from the list are also those in the paragraph above. The data to support such removal must be the best scientific and commercial data available to the Service to substantiate that the species is neither Endangered nor Threatened for one or more of the following reasons:

1. *Extinction.* Unless each individual of the listed species was previously identified and located, a sufficient period of time must be allowed before delisting to clearly ensure that the species is in fact extinct.

2. *Recovery of the species.* The principal goal of the Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted if the evidence shows that it is no longer Endangered or Threatened.

3. *Original data for classification in error.* Subsequent investigations may produce data indicating that the best scientific or commercial data available at the time that the species was listed were in error.

Effects of the Review

If substantial evidence is available to the Service or is presented by any party for one or more species listed below, the Service may propose new rules that could do any of the following: (a) Reclassify a species from Endangered to Threatened, (b) reclassify a species from Threatened to Endangered, or (c) remove a species from the Lists of Endangered or Threatened Wildlife and Plants. Distinct geographic populations of vertebrate species as well as subspecies of all species may be proposed for either separate reclassification to a different status than the presently listed species or for removal from the list. If no substantial data are available or presented to suggest a status change for a particular species, then the next formal status review for that species will be announced no later than 5 years hence.

Public Comments Solicited

The Service requests any comments concerning the status of any of the species listed below. Comments from

the public, other governmental agencies, the scientific community, industry, or any other interested party are hereby solicited. The Service primarily seeks any new or additional information that reflects the necessity of a change in status proposed and final rules for each species can be used to determine what data formed the basis for the original classification. If significant data are available warranting a change in a species' classification under the Act, the Service may propose a rule to modify the present status of the listed species. Comments and data are requested on the following subjects:

1. Past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate geographic population; the particular threatening factors affecting the species; and, if appropriate, the features and importance of any Critical Habitat;

2. Supporting documentation, such as maps, a list of bibliographic references, reprints of pertinent publications, or copies of written reports or letters from authorities.

The procedural rules for reclassifying or removing a species from the list are codified at 50 CFR Part 424.11 and are currently under revision (see Proposed Rule at 48 FR 36062–36069, August 8, 1983).

Author

The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

The Service is requesting comments and appropriate data which might document the need to delist or reclassify any of the selected species of endangered or threatened wildlife and plants listed below.

Wildlife species		Historic range	Vertebrate population where endangered or threatened	Status	Office receiving comment
Common name	Scientific name				
Mammals:					
Elephant, African	*Loxodonta africana*	Africa	Entire	T	7
Wolf, gray	*Canis lupus*	Holarctic	U.S.A. (48 conterminous States other than MN), Mexico.	E	3
Wolf, Gray	*Canis lupus*	do	U.S.A. (MN)	T	3
Birds:					
Eagle, bald	*Haliaeetus leucocephalus*	North America south to northern Mexico.	U.S.A. (conterminous States, except WA, OR, MN, WI, MI).	E	5
Eagle, bald	*Haliaeetus leucocephalus*	do	U.S.A. (WA, OR, MN, WI, MI)	T	5
Reptiles:					
Boa, Mona	*Epicrates monensis monensis*	U.S.A. (Puerto Rico)	Entire	T	4
Iguana, Mona ground	*Cyclura stejnegeri*	U.S.A. (Puerto Rico)	do	T	4
Rattlesnake, New Mexican ridge-nosed	*Crotalus willardi obscurus*	U.S.A. (MN), Mexico	do	T	2
Snake, eastern indigo	*Drymarchon corais couperi*	U.S.A. (AL, FL, GA, MS, SC).	do	T	4
Turtle, green sea	*Chelonia mydas*	Circumglobal in tropical and temperate seas and oceans.	Wherever found except where listed as endangered below.	T	4
Turtle, green Sea	*Chelonia mydas*	do	Breeding colony populations in FL and on Pacific coast of Mexico.	E	4
Turtle, loggerhead sea	*Caretta caretta*	Circumglobal in tropical and temperate seas and oceans.	Entire	T	4
Turtle, Olive (Pacific) Ridley sea	*Lepidochelys olivacea*	do	Wherever found except where listed as endangered below.	T	7
Turtle, Olive (Pacific) Ridley sea	*Lepidochelys olivacea*	do	Breeding colony populations on Pacific coast of Mexico.	E	7
Fishes:					
Darter, leopard	*Percina pantherina*	U.S.A. (AR, OK)	Entire	T	2
Trout, greenback cutthroat	*Salmo clarki stomias*	U.S.A. (CO)	do	T	6
Trout, Little Kern golden	*Salmo aguabonita whitei*	U.S.A. (CA)	do	T	1
Snails:					
Snail, Chittenango ovate amber	*Succinea chittenangoensis*	U.S.A. (NY)	NA	T	5
Snail, flat-spired three-toothed	*Triodopsis platysayoides*	U.S.A. (WV)	NA	T	5
Snail, Iowa Pleistocene	*Discus macclintocki*	U.S.A. (IO)	NA	E	3
Snail, noonday	*Mesodon clarki nantahala*	U.S.A. (NC)	NA	T	4
Snail, painted snake coiled forest	*Anguispira picta*	U.S.A. (TN)	NA	T	4
Snail, Stock Island	*Orthalicus reses*	U.S.A. (FL)	NA	T	4
Snail, Virginia fringed mountain	*Polygyriscus virginianus*	U.S.A. (VA)	NA	E	5
Crustaceans:					
Isopod, Socorro	*Thermosphaeroma (Exosphaeroma) thermophilus.*	U.S.A. (MN)	NA	E	2

Plant species		Historic range	Status	Office receiving comment
Scientific name	Common name			
Betulaceae—Birch family:				
Betula uber	Virginia round-leaf birch	U.S.A. (VA)	E	5
Brassicaceae—Mustard family:				
Arabis mcdonaldiana	McDonald's rock-cress	U.S.A. (CA)	E	1
Erysimum capitatum var. *angustatum*	Contra Costa wallflower	do	E	1
Crassulaceae—Stonecrop family:				
Dudleya traskiae	Santa Barbara Island liveforever	do	E	1
Fabaceae—Pea family:				
Astragalus perianus	Rydberg milk-vetch	U.S.A. (UT)	T	6
Baptisia arachnifera	Hairy rattleweed	U.S.A. (GA)	E	4
Vicia menziesii	Hawaiian vetch	U.S.A. (HI)	E	1
Hydrophyllaceae—Waterleaf family:				
Phacelia argillacea	None	U.S.A. (UT)	E	6
Lamiaceae—Mint family:				
Pogogyne abramsii	San Diego mesa mint	U.S.A. (CA)	E	1
Liliaceae—Lily family:				
Trillium persistens	Persistent trillium	U.S.A. (GA, SC)	E	4
Onagraceae—Evening-primrose family:				
Oenothera avita ssp. *eurekensis*	Eureka Valley evening-primrose	U.S.A. (CA)	E	1
Oenothera deltoides ssp. *howellii*	Antioch Dunes evening-primrose	do	E	1
Poaceae—Grass family:				
Orcuttia mucronata	Solano (= Crampton's Orcutt) grass	U.S.A. (CA)	E	1
Swallenia alexandrae	Eureka Dune grass	do	E	1
Zizania texana	Texas wild-rice	U.S.A. (TX)	E	2
Ranunculaceae—Buttercup family:				
Aconitum noveboracense	Northern wild monkshood	U.S.A. (IA, NY, OH, WI).	T	3
Scrophylariaceae—Snapdragon family:				
Cordylanthus maritimus ssp. *maritimus*	Salt marsh bird's beak	U.S.A. (CA), Mexico (Baja California).	E	1
Pedicularis furbishiae	Furbish lousewort	U.S.A. (ME), Canada (New Brunswick).	E	5

Dated: December 1, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

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Thursday, December 8, 1983

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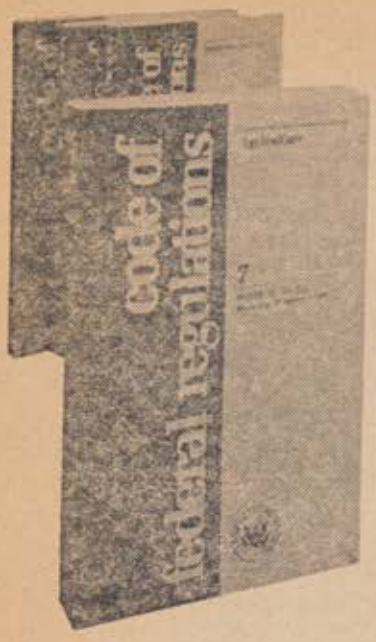
H.R. 4476/Pub. L. 98-207

To extend the authorities under the Export Administration Act of 1979, and for other purposes. (Dec. 5, 1983; 97 Stat. 1391) Price: $1.50

H.J. Res. 381/Pub. L. 98-208

To provide for appointment of Samuel Curtis Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution. (Dec. 5, 1983; 97 Stat. 1392) Price $1.50



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